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DEMOCRATIC GOVERNANCE IN MALI

A STRATEGIC ASSESSMENT

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PREFACE

The authors of this report owe a debt of gratitude to the Government and people of Mali who gave so freely of their time to assist us in developing an understanding of the emerging democratic system in their country. Although these individuals are too numerous to be cited individually here, especially helpful in this regard were the leaders of the National Assembly, the leaders of the major political parties, representatives of the press, the parliamentary groups, the office of the Prime Minister, the Ministry of Territorial administration, the Ministry of Justice and Human Rights, the heads of several PVOs, several mayors and municipal councillors, the Statistical Service, the national trade union association, and many others.

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EXECUTIVE SUMMARY

Mali has gone through revolutionary political change in the past two years, and is desperately attempting to consolidate its democratic development. USAID/Mali has one clear governance strategic objective in its commitment to "improving the efficiency of public sector management." It also has a program of project and non-project assistance (Policy Reform for Economic Development) which is linked to the establishment of a commercial court system. However, given the dramatic political events of the past year, including the institutionalization of multiparty democracy and the holding of free and fair nationwide elections which brought a new government to power in June 1992, the Mission wishes to understand the needs of other key institutions essential to the consolidation and sustaining of democratic governance, with an eye to providing some assistance to these institutions as quickly as possible. Independently of this assessment, USAID/Mali plans separate projects to address needs of civil society in information and civic education to function more effectively in a democratic environment.

USAID/Mali developed a scope of work for a democracy/governance assessment, focusing on four areas:

- the needs of political parties to adapt to multiparty competition;
- ways to help advance decentralization;
- the needs of the judiciary; and
- the needs of the legislature.

In response to the Mission's request, AFR/ONI/DG asked ARD/MSI to organize an assessment team to address these issues. ARD/MSI recruited a highly experienced assessment team of two Americans and two Africans, who employed participatory methods for soliciting the input of Malians at various levels, both in identifying critical bottlenecks and needs. The team concluded its assessment in October 1992.

In its analysis of political parties the assessment both identified very positive developments in the adaptation of political parties in Mali to multiparty competition and important needs. On the positive side, despite the fact that insufficient time has elapsed for a participatory democratic political culture to take root in the minds of many Malians, three parties (ADEMA, USRDA, and to a lesser extent CNID) have developed some of the elements of sustainable political parties, due in part to their on-going activity, sometimes clandestine, as organizations over some period of time. Serious problems also exist, linked to a complex electoral system, and a lack of experience with electoral politics on the part of most Malians, most strongly evidenced by low voter turnout. These problems, however, are not laid directly to either the electoral or the party system, which the assessment finds to be fully consistent with the principles of sound democratic governance. Instead, they are matters of learning how to use the system. The principal needs were found to be the need to increase

communication between citizens and elected representatives at all levels, and the need to improve the capabilities of elected officials to identify and formulate policy options. The assessment pointed to the need for equipment which could enable parties to produce newsletters, and for other means to communicate with constituents. The assessment also identified the need for training of staff in policy analysis so that elected officials could address needs and design legislation and programs.

The assessment examined the potential of local communities to play a significant role in governance in Mali, particularly in such areas as natural resource management. It documented that fact that decentralization is not a new concern in Mali, but that under President Traoré, it was considered an alternative to democratization rather than the foundation for it. With changes in rules under the new constitution of 1992, inspired by the National Conference, new possibilities for local government and decentralization exist. Nonetheless, there is a great deal that needs to be done to improve the competency level of rural officials and the understanding on the part of rural people of their rights and obligations as citizens. It proposed training of local officials, and civic education through the diffusion of information on local government proceedings, largely through the use of local language radio broadcasts. It also outlined a program of civic education and conflict resolution involving citizens and Malian army units. Finally, it stressed the need to improve the press through the training of journalists and the support of legal advisory centers, as well as an increase in literacy training, particularly for rural leaders and women.

In the area of judicial reform the analysis pointed to the tremendous material and training gaps in a legal system, rendered impotent and dysfunctional by years of executive control and neglect. It pointed out that the new wave of Malian leaders exhibit a strong desire to reinvigorate the courts and law associations so that they can play a more effective role as guarantors of rights and freedoms, as arbitrators of growing pluralism, and as critical elements in establishing a climate for investment.

The recommendations in the legal realm were modest, essentially very basic and fundamental to the successful functioning of a legal system--- assisting with legal codification; training of lawyers and judges, assistance with provision of courts with basic law books, including the Malian codes, support for the Malian bar in terms of modest physical infrastructure and help establishing a training institute to upgrade the skills of lawyers, and support in the form of books and documents and training in record keeping to the Constitutional Court and Supreme Court, seen as critical agencies of conflict management and resolution in a growing plural society. The assessment also pointed to key places where AID could support Malian civil society in promotion of basic human rights and civic education through assistance to the Association of Young Malian Lawyers, the Association of Malian Women Legal Practitioners, the Malian Association for Human Rights, and several associations which specifically promote the rights of children and women.

The analysis of legislative institutions pointed to the gaps between the institutional arrangements adopted in the new constitution and the political realities of parties and political

education of the electorate. Whatever the intent, the Malian constitution and electoral laws have created a situation in which the legislature is relatively weak compared to the executive. Added to this is the weakly accepted notion of legitimate opposition in Malian political culture. Evidence points to the limited deliberative and lawmaking roles of the Malian parliament. Its internal rules, broadly adapted from the French Fifth Republic, limit legislative capacity to act substantially. Its capacity to check the executive is limited to questioning and inquiry, and to votes on the budget. On the other hand, the Malian executive has substantial control of the National Assembly's rules, agenda, and ability to initiate legislation entailing expenditures. Above all, the executive can dissolve parliament. Thus far, these legal relationships pose no difficulty given the strong majority of support that a single party, ADEMA, has. Should greater opposition arise, however, legislative roles will be severely tested. The power given to the legislature to modify and even redraft legislation submitted by the executive may prove to be an important check on executive rule. This check, however, can only be effective if deputies have access to better equipment and material to research laws and policies.

Malian legislatures will need technical assistance to draft and modify legislation. Malian deputies also need some reinforcement in the ideas of constituent representation through exchanges with foreign MPs. Above all, the assessment concluded that Malians should be urged to recognize and institutionalize the notion of an official status for the opposition.

I. Introduction

The Republic of Mali has undergone dramatic, even revolutionary, political transformation in the past eighteen months. With considerable sacrifice and bravery, Malians, particular young Malians, confronted the military regime, eventually precipitating a crisis which so undermined its legitimacy that the military intervened to overthrow it in March 1991. Malians organized an interim government, held a sovereign National Conference, approved a new constitution, organized and registered a large number of political parties, and held municipal, legislative and Presidential elections which brought a new elected government to power in June 1992. Now, the hard work of building democratic governance must begin.

Over the past five years USAID/Mali has been deeply involved in laying the foundation for democratic governance throughout its entire portfolio: through its programs, including its Project and Non-Project Assistance in Policy Reform work with the Commercial and Administrative Courts and support for better financial accountability through its activities with the State Controller General; through its activities with local and decentralized institutions with the Decentralization: Finance and Management Buy-in; through its use of Section 116e (Democracy and Human Rights Fund) for electoral assistance and for civic education and training of village leaders; and through several proposed new projects to strengthen democratic governance in education through parent-teacher associations, and in village associations which have a role in productive activities. Thus, it was well placed to respond to the new political situation in Mali at all three levels of democratic governance implied in the language of the Development Fund for Africa (technical support to improve the effectiveness of policy, support to the political environment for market-oriented reform, and encouraging participatory development by strengthening decentralized and local-level governance.)

Still, during the period of transition to an elected government, it has been increasingly apparent to the USAID/Mali that elections would be only the first step in consolidating Mali's democratic system of governance. The mission identified as critical the issue of the capacity of key institutions, crucial to democracy, to function. Specifically, it was concerned about five institutions: political parties and associations; local governments; the judiciary; the legislature; and institutions of public opinion. Accordingly, USAID/Mali requested assistance from the A.I.D. Africa Bureau's Office of Operations and New Initiatives/Democracy Governance in funding and fielding an assessment targeted at analyzing the first four of these institutions, in assessing their capacity to perform, and identifying areas where they needed strengthening.

In response, ONI/DG requested ARD/MSI to recruit and field a four person team to conduct a focused assessment. The scope of work for this assessment, and the personnel requirements, were written by the Mission in consultation with ONI/DG. ARD/MSI responded by recruiting a highly experienced team of American and African specialists, and the assessment was conducted in August/September 1992. The team was asked to employ the guidance provided in the Africa Bureau's Concept Paper on Governance (June 1992) as

the basis for judging political system and institutional capacity and performance. The "Concept Paper" is guided by an approach to understanding governance processes which stresses legitimacy and responsiveness rooted in power sharing and mutuality of benefit between state and non-state actors, and which sees political behavior as largely explainable through perceptions of rational choices as ways to achieve interests within a set of rule-ordered relationships.

This approach suggests several premises about the governance process:

- that beyond free and fair electoral choice, sustainable democratic governance requires the development of an institutional framework which produces understandable, widely-known and accepted rules which political actors can follow in managing the allocation and use of public resources;
- that democratic governance requires the development of institutions which produce perceptions of mutual or reciprocal benefit to a wide number of political actors;
- that democratic governance requires on-going mechanisms of political and policy accountability;
- that sustainable democratic governance requires effective, competence, transparent and relatively honest governance;
- that sustainable democratic governance requires sharing of both power and authority among a number of political actors, including between central and decentralized, as well as state and non-state institutions.

Based on this conception of democratic governance, the team was able to assess the capabilities and performance of the key institutions identified by USAID/MALI in terms of the following criteria:

- their capacity for competence and effective governance;
- their capacity for political accountability;
- their capacity to respond to demands by various elements of Malian society; and
- in the case of local governments and non-governmental associations and actors, their capacity for self-governance and for sharing responsibility and authority with the institutions of central government.

The assessment identified the strengths and areas of weakness of these institutions and made specific recommendations for support based on perceived needs. It is hoped that this document will then enable USAID/MALI to determine how it may strengthen and deepen the democratic governance process in Mali as a function of its comparative advantage for action, other donor involvement, its human and financial resource base, and its determination of its manageable interest.

II. Political Parties and the Party System in Mali

A. Introduction

Mali has experienced extraordinary changes in the past two years leading to the transformation of the political system. These changes include: 1) the overthrow of the relatively authoritarian Traoré regime as a result of military intervention (March 26, 1991) following the popular rebellion (January to March) known as the "événements"; 2) the setting up of a transition government (CTSP, Comité Transitoire pour le Salut du Peuple) under Lieutenant-Colonel Amadou Toumany Touré (ATT); 3) the holding of a broad based National Constitutional Conference (July 29-August 12, 1991); 4) the approval by referendum of the new constitution (January 12, 1992); 5) the signing of the "Pacte du Nord", theoretically ending the Tuareg revolt; 6) the creation and/or reappearance of numerous (at one point 47) political parties; 7) elections at the municipal level (January 19, 1992), two rounds of National Assembly elections (February 24 and March 9), two rounds of Presidential elections (April 13 and 27); 8) the signing of the "Pacte Sociale" with the unions in May; and 9) the installation of a civilian Government (June), and the beginnings of new democratically elected, representative institutions such as the National Assembly and the municipal councils.

While these many changes seem to provide the basis for development of a democratic polity, the rapidity with which they occurred leave many questions to be answered. To what extent are these changes merely cosmetic as opposed to representative of a profound commitment to democratic governance in the long term.

The broad debate concerning the concept of governance and its role in development, has undergone a number of significant changes in orientation during the past several years. As with any concept just gaining acceptance in the literature, there exist broad definitional differences. One major school of thought places emphasis on the impact of governance on economic performance. Writing on behalf of the World Bank, Pierre Landell-Mills argues that governance is "the use of political authority and exercise of control over a society and the management of its resources for social and economic development" (1991: 3). He goes on to say that his definition encompasses the nature of functioning of a state's institutional and structural arrangements, decision making processes, policy formulation, implementation capacity, information flows, effectiveness of leadership, and the nature of the relationship between rulers and ruled." (Landell-Mills, 1991). Goran Hyden provides a definition which places greater emphasis on political variables: "governance... is the conscious management of regime structures with a view to enhancing the legitimacy of the public realm... Legitimacy is the dependent variable produced by effective governance" (1992: 7). Much of that diverse literature has been successfully synthesized and expanded upon by Charlick in the USAID Africa Bureau Governance Paper (1992). For purposes of this analysis, the definition provided in that paper by Robert Charlick will serve as the starting point for analysis:

"governance is conceived of as the effective management of public affairs through the generation of a regime (set of rules) accepted as legitimate, for the purpose of promoting and enhancing societal values sought by individuals and groups" (1992).

In this context, he further suggests that democratization is :

"a particular set of governance relationships or ways of achieving governance objectives. Democratization emphasizes **accountability** through **open competition** for authority (usually through electoral choice among alternatives), **responsiveness** and **policy pluralism** through **participation**, particularly by non-state actors, and respect for human rights, needed to assure the viability of these other democratic traits" (1992).

Hence, in our examination of the political parties and the party system in Mali, emphasis will be placed on the issue of accountability through open competition, responsiveness vis-à-vis the population and associational groups, and on the development of and opportunities for policy pluralism.

B. Political Parties, the Party System, and Democratic Governance

Before proceeding, it should be noted that the values associated with governance are not culturally neutral. That is, they may mean very different things in different contexts. Therefore, it is possible for a state to establish a facade that has all of the outward appearances of a democratic system without necessarily establishing the "participatory, democratic political culture" necessary to sustain it. The set of cognitive, affective and evaluative orientations that comprise a participatory, democratic political culture have clearly not had sufficient time to be nurtured in the Malian context. To assume that democratic institutions could be established in one or two years after decades of authoritarian rule and government mismanagement would be extremely naive.

In this section, the nature of the party and electoral systems will be discussed and their actual and potential contributions to "democratic governance" assessed. The foundations of the emerging party institutions and the direction of their likely evolution is examined. Furthermore, based on an assessment of the democratic potential, critical opportunities for technical interventions in support of democratic development will be suggested.

After thirty years of one party rule under the first and second Republics, the legal basis for a multi-party competitive system was established by the transitional (CTSP) government in Mali in September of 1991 with the promulgation of the charter for parties. In light of these changes, the key questions to be addressed here are:

- 1) Is the party system currently developing in Mali consistent with the concept of democratic governance?

- 2) Are the parties national in scope or do they tend to represent ethnic and/or regional interests? Do they have rural as well as urban organizations and bases of support?
- 3) Is there a viable opposition party or parties? That is, are there parties with organizational bases capable of sustaining themselves while out of power and taking over the reigns of government at some point in the future?
- 4) Given the relative resources available to the government and opposition, is an open, competitive party system likely to endure?
- 5) Do the parties appear to be capable of presenting viable policy alternatives to those of the governing party in the National Assembly or in municipal councils, and soon to be created rural councils?
- 6) Is the electoral system "fair" and representative, yet capable of providing stable governing and opposition parties or coalitions?
- 7) Do the parties provide opportunities for access to and participation by the average Malian citizen in decisions affecting their lives?

C. The Nature of the Party System in Mali

The opening up of the Malian political system to democratic participation following the "événements" and the subsequent legalization of political activities led initially to the creation of an extremely complex playing field which included some 47 different "political parties" (see the list in the Annex). With the completion of municipal, National Assembly and presidential elections, it is possible to get a preliminary image of the nature of the party system. It should be cautioned that, at this point in time, with the new government in power for less than six months, it is difficult, if not impossible, to foresee changes which might lead the distribution of party support in very different directions. Some trends have begun to emerge with the series of five elections having produced a clear shakeout in the system. It should be underlined, however, that the party system in Mali was not born in a void, but evolved. The roots and ongoing organizational base of today's parties are closely linked to Mali's historical development, especially in the period following World War II.

D. The Role of the Parties

As will be seen from the election results (see below), the number of organizations in Mali which can lay claim to being serious political parties is significantly smaller than the total number of parties actually registered. The discussion here will be limited to those parties which won seats in either the municipal councils or in the National Assembly. It is quite clear from an analysis of these "parties" that even among them, only a few are likely to survive until the next national elections (1997). Several factors seem to be of importance for

assessing the long term survival and staying power of the various parties, including their ability to perform the representative function and to present policy alternatives either as a governing or opposition group:

1. the development and maintenance of a strong party organization, with the depth and breadth necessary to reach out to and penetrate the rural areas, recruit members and raise funds;
2. the degree of institutionalization of the party as indicated by its historical roots, longevity, survival, and continuing support;
3. the existence of a core home area, ethnic, and/or regional base of the party;
4. the perception that the role of party officials, including elected deputies and counselors, as that of providing constituent services, especially in matters relating to representation before administrative authorities (e.g., territorial administration);
5. the level and nature of communication between the population, party supporters and the party organization and elected officials, including the degree of personal contact, both in the course of electoral campaigns and in the execution of day to day functions.

It has been argued that in the African context in the past, each of these factors has had a major impact on the success of political parties (Hodgkin, 1961, Morganthau, 1964, Coleman and Rosberg, 1966, Zolberg, 1966, LaPalombara and Weiner, 1966, Dudley, 1967, McKown and Kauffman, 1973, Vengroff, 1977, 1979..etc.). The degree to which the political parties currently on the scene in Mali meet these criteria is indicative of their current strength, their future survival and success, and their potential contribution to democratic governance.

Of the numerous parties participating in the electoral process in Third Republic Mali, only three, ADEMA, USRDA and, to a lesser extent CNID, what we will label the first tier, meet most of the criteria noted above. Among the first tier national parties, the ADEMA and the USRDA both have strong historical roots and important organizational resources and strengths throughout the country. There is a second tier of parties, the RDP and PSP, which meet some of the criteria, and at least have the potential to become national parties. Just below them is a group of very regionally oriented parties, the RDT, UFDF, DP, PMD, UDD, which, in spite of some electoral success in the National Assembly and the municipal councils, are likely to either merge with, or at least go into coalition, either in the Government, or in the opposition (in one of the parliamentary groups) with one of the larger parties, or continue to exert a strictly local/regional influence.

1. ADEMA-PASJ

ADEMA (Alliance pour la Démocratie au Mali) has its origins in several clandestine organizations which came into being after the seizure of power by Moussa Traoré in 1968. Included in the early alliance were the PMT (Parti Malien du Travail), the PMRD (Parti Malien de la Révolution et la Démocratie), and part of the youth wing of the banned RDA. After years of isolated clandestine opposition and persecution, including torture and imprisonment of their members, these groups came together in the FNDP (Front National Démocratique et Populaire) in 1986. The organization, whose core supporters were primarily teachers and local health professionals, was able to use these geographically dispersed, but locally respected groups to organize and spread the word rapidly throughout the entire country. When open, pro democracy demonstrations were launched by the FNDP on March 31, 1990, demands for change and an end to one party rule by Traoré's UDPM were heard in virtually every "cercle". The ADEMA, officially allowed to exist as an association because of a legal technicality discovered in 1990, participated actively with students and the unions in the demonstrations which were to topple the government on March 26, 1991.

The ADEMA formally transformed itself into a political party, ADEMA-PASJ (Parti Africain pour la Solidarité et la Justice) at its special congress (May 25-26, 1991). Its "militants" include a core of middle aged teachers and health professionals who are relatively influential, able organizers at the local level. Rather than starting from scratch, ADEMA-PASJ had, at the time of its birth as a party, established sections in every "cercle", "sous-sections" (sub-sections) in most "arrondissements", and "comités" (committees) in many rural villages and urban "quartiers". The party was able to use this well elaborated organization, its many relatively well educated local opinion leaders, the past persecution of many of its militants and its association with the "événements", to build a strong communication network, and virtually unbeatable electoral machine. Combined with a strategy that brought the maximum number of candidates, including its presidential candidate, Alpha Konaré, down to the base of the system for face to face contact with the rural voters, and a majority electoral system which tends to favor a strong party, the well articulated organization virtually insured success in the elections. The party was thus able to show strength in every region in Mali, dominating the municipal elections and both rounds of the National Assembly and Presidential elections.

The main risk that the ADEMA-PASJ currently faces is that of the successful, dominant electoral force in many African countries, having its most talented, committed leaders absorbed by the government that the party dominates and/or having the party captured by the functionaries. With control of the Presidency, the government, 73 seats in the 116 seat National Assembly and additional party allies in the "Pacte Républicain" (PDP, RDT, RDA-Haidara wing), some fear that Mali may eventually be transformed into a one party state. However, for the moment, most ADEMA leaders seem to have a healthy respect for the "idea" of an opposition, and appear to be sincerely committed to building a stable democracy.

2. US-RDA

The USRDA (Union Soudanaise-Rassemblement Démocratique Africain), founded in 1946, is one of the oldest political parties in West Africa (Campas, 1978, Morgenthau, 1965). The party emerged from its urban intellectual roots to become a serious force in pre-independence Mali, building a core of support in Mopti and Tombouctou in the early 50s which was still in evidence forty years later in the 1992 elections. The party, allied with RDA sections in other Francophone west African countries, came to power in 1957, defeating the PSP in the territorial elections. The socialist oriented USRDA, became, for all intents and purposes, the sole party in Mali at the time of independence in 1960. Under President Modibo Keita, the party had nearly a decade of experience running the country, an experience abruptly ended by the coup of 1968. During its period in power, the party was able to firm up its pre-independence organizational strength throughout Mali.

Under the Traoré regime, the party split, some members choosing to operate clandestinely, many spending time in prison, part of the more moderate wing collaborating with Traore, part of the youth wing joining the opposition coalition in the FNDP, and some members eventually moving to ADEMA and CNID. The current party organization, which includes 52 sections, has split again, along lines similar to past internal ideological and personal disagreements. The older, hard-line Modibo Keita supporters, led by their presidential candidate, Baba Akim Haidara, controlled the executive committee of the party. The younger wing of the party (although it still includes the elders from the party's anti-collectivist, moderate wing of the 1960s) led by Tieoulé Konaté (a direct descendent of one of the party's founders), dominates the party congress (Congrès Extraordinaire) and the general party organization. The split between the Haidara and the Konaté wings has hurt the party's image, but not yet had a profound effect on the organization. The dominant Konaté wing remains strong, with a good base in the rural areas as well as in the towns.

The party is, overall, the second largest in Mali after ADEMA. It is this party which most directly competes with ADEMA for the core Malian voter. Some party leaders suggest that one of the ways in which ADEMA developed its strength in the rural areas was by convincing the peasants that since many USRDA militants had participated in ADEMA, that the two were in fact the same. Some RDA support, they charge, was thus transferred first to the ADEMA association and then eventually to the party.

Being the country's second party and the one most directly competing with the largest party (ADEMA) the USRDA was clearly hurt the most by the majority winner take all electoral system. In a proportional system, it would have more than doubled its National Assembly representation. Its relative strength, compared to ADEMA, is probably better indicated by the results of the municipal elections, where it finished a strong second in terms of the number of seats. Where the future will bring the party is difficult to determine. However, as of this writing, it is the most likely of all the parties to provide a serious opposition, an opposition with a chance of becoming a majority at some future date.

3. CNID

The third of the "major" parties in Third Republic Mali the CNID (Congrès National d'Initiative Démocratique) is the youngest of the new parties, having been founded as an association in October of 1990 and becoming a party in May of 1991. CNID supporters were quite active in the events leading up to the fall of the Traore government. The party's core of militants are relatively young, have studied abroad, are urban, and unlike their ADEMA counterparts, by and large are not part of the group of Malians who remained in the country and spent time in prison under the Second Republic.

Although the party has a dynamic, articulate spokesman in Mountaga Tall, CNID's success in penetrating the countryside and generating support among the rural majority has thus far been limited. Tall's ethnic roots in a historically prominent Toucouleur family, even though he is a fluent Bambara speaker, tend to work against him (only about 5% of the population is Toucouleur). In addition, his reputation was, in some peoples eyes, tarnished when, in the face of threats on his life, he went into hiding and actually leaving the country during the critical days leading up to the final confrontation between the democratization movement and the Traore regime. In spite of a very respectable third place finish in the first round presidential elections, the party showed little real strength outside the cities and Tall's home area, Segou.

As the leader of the second largest party in the National Assembly, Tall has taken on the role of prime spokesman for his parliamentary group and for the opposition in general. CNID has, as of yet, not been willing to forge an effective coalition either with the governing ADEMA, which offered to have the party join them in sharing power under the "Pacte Républicain", or with other groups in the National Assembly (CNID chose to remain a single party parliamentary group). Survival of the party, in spite of its relative success, including control of a number of Mayoral seats, will require extensive organizational work at the base if it is to develop into a serious challenger for power at some future date.

4. The Second Tier Parties (the RDP and the PSP)

The second tier of parties is headed by the RDP (Rassemblement pour la Démocratie et le Progrès) which takes a centrist position on most issues. It is the only other party in the country, outside the first tier, whose national organization and preliminary electoral success give it some possibility of attaining national importance. At all levels of elections, the RDP made a respectable showing, finishing fourth nationally in the municipal elections (with a total 64 seats), fourth in the National Assembly elections in terms of the percentage of the vote (but not seats won), and fourth in the first round of the nine man presidential elections (9.44%). The party has consistently done well in the south and west, winning National Assembly seats in the First (Kayes) and Third (Sikasso) Regions, finishing second in the municipal elections in Kati, Kayes, Koutiala, Bougouni, and the Commune VI of Bamako, and in the first round presidential elections, where its candidate Almamy Sylla finished second in Region I (Kayes), and third in Regions II and III (Koulikoro, Sikasso).

The leader of the party, Almamy Sylla, a well known international diplomat, is an articulate critic of government policy, and is willing to speak out on unpopular issues. For example, after the recent suspension of the "minimum fiscal", a very unpopular tax, Sylla, openly opposed the suspension on the grounds that no alternative revenue source had been established to replace it. The party organization is well elaborated nationally, but probably could have done better if it had concentrated its limited resources in its areas of greatest strength in the first three regions. Party finance, partly underwritten by Sylla himself during the elections, is now a critical problem.

It is important to note, that the RDP was one of the big losers in the majority, winner take all electoral system. Its national campaign was much more closely geared to a proportional system, as demonstrated by the contrast between its success in the municipal as opposed to the National Assembly elections. In fact, if National Assembly seats had been allocated proportionally by region, the RDP would have won ten rather than four seats and been represented in seven regions, making it the fourth largest party nationally, and a power to be reckoned with in the coalition building process. Under the current system, the RDP will have to work more closely with its legislative allies, the UFDP, and the PSP to expand its potential influence or slowly disappear from the scene.

Also in the second tier of parties, the PSP (Parti Progressiste Soudanais), is notable because of its historical role as the first African party to experience electoral success under the colonial regime (some charge with the tacit support of the French authorities). In 1945, Fily Sissoko, a founder of the PSP, won a seat in the Constituent Assembly, defeating his two RDA rivals, Konaté and Keita. The PSP, partially because of its association with the French colonial regime saw its support gradually eroded. It was defeated definitively by the RDA in the territorial elections of 1957 and immediately came under intense pressure from the new regime. After independence, as a result of anti government demonstrations associated with Mali's leaving the Franc zone, it lost its founders (Sissoko, Hamadoun Dicko and Kassoum Touré) to arrest and imprisonment in 1962. After their martyrdom, allegedly execution on the orders of President Modibo Keita in 1964, the party disappeared for many years thereafter. After years in exile, its current leader, Professor Sokono Sissoko, the widely respected Africanist historian, returned to Mali upon the overthrow of Traoré.

Originally the party of the traditional chiefs, the PSP has tried to reestablish itself throughout the country based on the continued support of the former traditional authorities and notable families. In 1992, thirty years after the arrest of its leaders, the PSP was remarkably still able to run a reasonably successful race in its old stronghold, Bafoulabé (the birthplace of Fily Sissoko), an area in which it has run well since 1945. Although it appeared to have lost the constituency in a close race with ADEMA, the courts awarded the victory to the PSP because of irregularities, thus giving the party two seats in the National Assembly. It also maintains pockets of support around the country. For example, the party was able to win seats (29 in total) on 15 of the 19 municipal councils. It can also be expected to make a good showing in the proposed rural commune elections, where its association with traditional authorities will have a positive impact. Furthermore, in simulated National Assembly

elections under a proportional electoral system, the PSP receives six, instead of its current two seats.

The future of the PSP, one of Mali's oldest parties, is rather tenuous. The shortage of adequate financial resources to mobilize supporters and run an extensive campaign led to the withdrawal of its candidate, Sekene Sissoko, from the presidential race. The lack of a significant core of young supporters is also critical.

5. The Regional and Local Parties

As stated in Aurore, an independent Malian newspaper, only the top few parties, really merit the label political party. "En dehors de ces formations, le reste dans une forte majorité n'est qu'un regroupement à base clanique, un lobby d'intérêt ou d'un regroupement régionaliste même" (Aurore, 22 August, 1991:2). The third tier of parties includes those with significant electoral strength and organization, but in a limited regional, ethnic, or local enclave, rather than nationally. The RDT (Rassemblement pour la Démocratie et le Travail), although small and very localized, is indicative of some of the ways in which party support in this third group is generated in Mali. It was formed as a party during the rise of opposition to Moussa Traore, mainly around a core of former Mopti residents (Association de Ressortissants de Mopti) living in Bamako. In the municipal elections, it won seats (11 in total) on only three councils, with more than half of the seats being in Mopti. In the three seat National Assembly constituency of Mopti, the party managed to bring together a coalition including the three most important families of local notables to assure the party of victory.

The RDT's carefully balanced local ticket had a positive effect in building on and reinforcing the tradition of compromise and coalition formation in the local political system. The RDT is currently part of the "Pacte Républicain" with ADEMA in the Assembly and has been able to secure for itself the Ministry of Tourism, and the Presidency of the National Assembly's Public Works Committee, both of vital interest to the economy of the north in general and Mopti in particular.

The UFDP (Union des Forces Démocratique pour le Progrès) provides an example of another locally important party, but one that is currently in the opposition. The party is led by a local notable, Colonel Yousouf Traoré, one of the leaders of the 1968 coup d'état, a minister under Moussa Traoré, a leader of the UDPM and eventually an outspoken critic of the regime. The local importance of this group is indicated by the fact that in the municipal elections, it was the only party to win a majority of seats on any of the nineteen councils (San). In addition, in the National Assembly elections, the UFDP won the three seats in the San circumscription, with a majority of votes in the first round.

Outside of San, the party has no real existence. Because of its solid base, however, the UFDP was able to deliver the San vote in the presidential elections to the candidate of its ally, the RDP, Almamy Sylla. Yousouf Traore and his party hold the leadership position in its parliamentary group which also includes the PSP (2 députés) and the RDP (4 députés).

This parliamentary group, linked together by common programs, interests, and personal ties, is able to exert very limited influence over the policy process.

For the opposition parties, the main advantages of establishing parliamentary groups (which require a minimum of seven députés) appear to be the recognition afforded to the group's leader, membership on the Committee of Presidents of Parliamentary Commissions and Parliamentary groups, office space and some logistical support. In total in Mali's National assembly, there are four different parliamentary groups representing the opposition, three with 9 seats each (USRDA-UDD, CNID, RDP-UFDP-PSP) and one with seven (PMD, UMADD). The survival of some of these smaller parties will require a larger scale, more serious effort at coalition building than has taken place to this date.

E. The 1992 Elections

The new, very complex electoral code (Ordonnance No. 91-074/P/CTSP, September 18, 1991) formally lays out the electoral process in great detail for each type and level of election. The majority system of voting (party list by circumscription in two rounds) in the National Assembly elections does not appear to have been the first choice of any of the parties competing in the election. Even the biggest winner, ADEMA, was only satisfied with the system after the fact. Most parties had openly declared themselves in favor of a proportional electoral system. However, in the course of the discussions which took place during the National Conference, the specter of an ungovernable system (Fourth Republic France being the most common reference cited) paralyzed by an unstable legislative majority, led the participants to accept a majority system. As a compromise, proportionality was retained for the municipality elections. Stability for the new democracy thus took precedence over the philosophical preference for proportionality.

1. The Municipal Elections

The Municipal elections, are based on a system of proportional representation designed to accommodate the greatest diversity of interests and parties possible on the councils. The 19 municipalities, including the six communes of Bamako, constitute a relatively small but growing portion of the Malian polity (19 of 55 electoral circumscriptions nationally). Since the proportional electoral system in use only requires an extremely small portion of the vote (between one and two percent) to win seats on municipal councils, and since the councils are relatively large (31-55 members), all organizations with any possibility of claiming the title of political party were able to win some seats. For example, even a tiny party composed of a small group of intellectuals, the PEI (Parti Ecologiste pour Intégration) which is probably more appropriately classified as an environmental interest group than a political party, was able to win 6 of the 751 council seats (one in each of six municipalities) under this system.

Voter participation was somewhat disappointing, given the fact that these represented the first free multiparty elections held in Mali in over thirty years. The average turnout per municipality was 33.7 percent ranging from a low of 21.5 percent in Koutiala (Sikasso,

Region III) to 43.9 percent in the commune of San (Segou, Region IV).

A variety of arguments have been advanced to explain the relatively low turnout, including faulty voter lists, many people outside the country but still appearing on the voting rolls, weak mobilization efforts by the parties, and the number and location of polling places. None of these arguments alone is compelling. However, when added to the relatively low literacy rates, confusion associated with the plethora of parties, the short time the parties had to put together new organizations and mount their campaigns, skepticism derived from years of authoritarian rule, and the fact that Malians had recently gone to the polls to approve the new constitution (with a turnout of 40%), the level of participation does not seem to be indicative of serious shortcomings in the development of democratic governance in Mali.

The first partisan elections under the new constitution, approved by referendum in late 1991, were the municipal council elections of January, 1992. They provided the first opportunity and perhaps the easiest mechanism for many of the new parties to test their strength, at least in the urban areas. Twenty four parties contested the elections in one or more of the nineteen communes. Of these, nineteen parties actually won municipal council seats. On average, more than nine parties competed per municipality, ranging from a low of four in Gao to a high of sixteen in Bamako's Commune IV. However, only three parties, ADEMA, USRDA, and CNID put up candidates in all of the communes. These highly fractionalized elections produced results in which the three leading parties together captured well over half (59%) of the 751 council posts. None of the three strongest parties were, however, able to win a majority of seats on any councils. Sixteen other parties, an average of about eight per commune, captured one or more seats in at least one of the nineteen municipal councils.

ADEMA, one of the associations which led the demonstrations which toppled the Traore regime, received on average 28.7 percent of the vote per commune (ranging from 15-47%), and led all other parties with 251 seats. Its areas of greatest strength in the municipal elections were in Sikasso, Koulikoro, Kayes, and Toumbouctou, all of which are regional capitals. It also performed very well in the six communes of Bamako, finishing in first place, with a plurality of the vote in all of them, but doing especially well in communes I and IV. Its weakest showings were in the towns of Koutiala, Segou, and San.

The historically important USRDA, the party which ruled Mali at the time of independence, was the sole functioning party under the First Republic. Given its firm roots, it was expected to make a strong showing even though it had been outlawed since 1968. At the time of the municipal elections it had not yet divided itself publicly in a factional, fratricidal struggle, which hurt it in subsequent elections. It finished second nationally with 130 municipal council seats, winning, on average, 17.6% of the vote per commune (range 5-42%). It showed its greatest strength in Mopti and Gao, its traditional core areas of support since 1952 (Campas, 1979), where it finished first among the competing parties. It also did well in Koulikoro and in most of the Bamako communes. Its weakest showings were in Nioro, Koutiala, and Toumbouctou.

[illegible]

The third of the three parties with national ambitions, CNID, like ADEMA, emerged from the demonstrations leading to the fall of the previous government. Building on a relatively youthful urban base, it averaged 12 percent of the vote per municipality (range 3-28%), winning 96 seats. CNID was able to demonstrate some strength in its leader's base in Segou, as well as in the Bamako communes, and Nioro. Its performance elsewhere was much more limited.

Among the remaining sixteen parties winning municipal council seats, the RDP (64 council seats) showed some promise in Kati, Kayes, Koutiala, and Bougouni, the UDD (63 seats) did well in Koutiala (finishing first with 44%), Nioro, and Bougouni, while the UFD (50 seats) had its best showing in Toumbouctou. The only other notable performance was by the UFDP in San. This is the only municipal council in the country in which a single party (the UFDP) won a majority of the votes (52%) and seats.

With an average of eight (range 4 - 13) different parties winning seats per urban commune, and with only one of the elections producing a majority party in a municipal council, coalition building became an extremely important and complex activity. The immediate impulse was for most of the smaller parties to group themselves against the leader, ADEMA. For example, although ADEMA won a plurality of the votes and hence seats in the six Bamako communes, the combined weight of the opposition left them with only one mayor out of the six. Meanwhile CNID, in coalition with other parties, elected three, the USRDA one, and PDP one mayor each in Bamako. The first, second and third vice mayors are salaried positions. In the process of coalition building in the six Bamako communes, the party which got the job of mayor allocated the remaining three salaried positions to elected counselors representing three different parties. Furthermore, the remaining members of the Commune "Bureau" were also divided among the coalition partners. In the course of this process, a variety of tradeoffs, several of which were to have an impact on the National Assembly and presidential elections were agreed to.

Although there were charges of fraud raised against the leading party, ADEMA, especially in Bamako, and although a number of parties seem to have employed questionable methods, the results in general do not seem to lend credence to accusations of broad based irregularities. It became clear from the results of the municipal elections that a number of parties are in fact very limited personal or regional entities. Most would have little chance in the National Assembly elections where a party list by "cercle" (majority - 2 round, multi-member districts) election process would take place. The field of contenders narrowed, but only slightly, for the first round of the legislative elections.

2. The National Assembly Elections

The National Assembly elections were organized around a majority electoral system in two rounds. The 116 seats to be voted on in Mali (an additional 13 are to be chosen by Malians living in other countries) are allocated among 55 "circonscriptions" based on the existing administrative units, the 49 "cercles" and six Bamako communes. The distribution of seats

is based on population, with one seat allocated for every 60,000 people or additional fraction of 40,000 or more, but with each "cercle" having a minimum of one deputy to elect. The number of seats allocated to each electoral circumscription range from one to six. Each party presents a complete list of candidates (candidates can legally appear on one list only) equivalent to the number of deputies in the circumscription in the winner take all, majority election. A party receiving a majority of the votes in the first round of the election in any circumscription is declared the winner. If no party receives a majority in a given area, the two parties finishing with the most votes compete in a second round election one week later. While the losing parties can endorse one of the top two parties' lists in the second round, they can not join them and produce a new composite list representing a coalition.

The obvious strength of ADEMA nationally, as demonstrated in the municipal elections, frightened the opposition. Amidst fears that the administration was firmly in the ADEMA camp, and charges of fraud and mismanagement in the municipal elections, the main opposition parties demanded a delay in the National Assembly elections in order to buy more time in which to adequately prepare, and campaign throughout the country. In addition, time was needed to allow the government to correct problems with the ballots. While the ballots included the party symbols, because of the costs involved, they were printed in black and white, rather than coded to the respective party colors. The proposed delay was agreed to by the transition government and the first round of the National Assembly elections, originally scheduled for January 26, 1992 was delayed until February 23, with the second round taking place two weeks later on March 9. Although ballot changes were promised, much to the chagrin of many parties, the black and white ballots were actually used (this situation was rectified for the presidential elections).

The level of participation in the National Assembly elections proved to be even more disappointing than that for the municipal councils. On average, voter turnout in the 55 electoral circumscriptions was only 22 percent. Although this figure reflects the generally lower turnout rates found in rural areas, the 19 municipal circumscriptions still registered only 25.8 percent participation, compared to a 33 percent rate in the municipal council elections. Average turnout in the second round for the 44 constituencies in which no party had received a majority in the first round remained at just under 22 percent. The correlation between voter turnout in the first and second rounds of the election is quite high ($r=.76$), indicating little change in the level of participation within constituencies between the two rounds. The only significant difference in voter turnout between constituencies is related to the urban-rural differences. Voter turnout in the 19 urban communes (25.8%) is significantly higher ($T=3.16$, $p<.002$) than the turnout in the 36 rural circumscriptions (20.2%). Differences in second round voting are in the same direction but are not statistically significant. It should be noted, however, that all of the constituencies in which the election was decided during the first round are considered to be rural.

Independent observer teams, although noting some anomalies, attested to the "adequacy" of the election procedures during both rounds of the election. Only eleven circumscriptions were decided during the first round, with five parties, ADEMA, USRDA, CNID, PDP, and

UMADD, winning a total of 15 of the 116 seats up for grabs. Ten parties remained in contention in one or more constituencies for the second round of the elections. The level of competitiveness and relative fairness of the election is indicated by the fact that of the ten parties remaining in the race in the second round, six of them had finished first in the first round elections in at least one circumscription. In addition, the leading party list in the first round was defeated in the second round in 7 of the 44 circumscriptions (16%). In those cases, ADEMA, which was involved in six of these races, lost in four (to USRDA, PMD, and CNID) and won in only two (both from USRDA). This evidence does not suggest that any one party was given preferential treatment.

a) The National Assembly Election Results

The first round National Assembly elections were contested by 22 officially registered parties, although to very different degrees. Only two parties, ADEMA and CNID, presented a slate (party list) of candidates in all 55 circumscriptions. Also competing on a national scale, the USRDA and the RDP each presented lists of candidates in 49 constituencies, while the PSP was present in 42. The UDD, RDT, and PDP competed in 29, 28, and 27 constituencies, respectively. The remaining parties of any significance, the UFDP, the PMD, UFD, PUDP, PMPS, PDJ, PEI and UMADD, offered lists in select regions and circumscriptions only. The most localized and personalist of the parties, UMADD, presented a candidate in only one constituency (a single member district), winning the election in the first round with nearly three quarters of the vote (73%).

The overall results of the National Assembly elections combined with a first place showing in the municipals clearly established ADEMA-PASJ as the party to beat at the national level. ADEMA is the only party which was able to win seats in all eight of Mali's regions and the Bamako District. In total it won 74 seats (of 116) in 37 different constituencies. Its apparent victory in an additional circumscription was overturned in the courts and the two seats were awarded to the PSP. The ADEMA was thus in the enviable position of being able to control the National Assembly with a strong, stable majority, without the need for coalition partners. The possibility of the emergence of a one party dominant government and the eventual drift to a one party state are an obvious concern to both observers of and participants in the system.

Although ADEMA received an average of 38 percent of the vote in the first round, it was extremely well balanced, winning about a third or more of the vote in every region. Its areas of greatest strength are in Region VI (Toumbouctou), where it won all five constituencies, and Regions I (Kayes) and II (Koulikoro) where it won five out of seven and six out of seven races, respectively. ADEMA was also very successful in Bamako where, in spite of a strong combined opposition, an opposition in control of five of six mayors offices, its députés won five of six communes. As noted, the proportional system used in the municipality elections in these same communes produced very different results. It is hard to say what part of the party's success in the National Assembly elections in Bamako is due to the majority (as opposed to proportional in the municipal elections) electoral system and that

TABLE TWO				
RESULTS OF MALI NATIONAL ASSEMBLY ELECTIONS				
PARTY@	CIRCUMSCRIPTIONS	CIRCUMSCRIPTIONS	CIRCUMSCRIPTIONS	CIRCUMSCRIPTIONS
	WON 1ST ROUND	1ST PLACE 1ST RND.	2ND PLACE 1ST RND	WON 1ST + 2ND
ADEMA	7	35	9	37*
CNID	1	1	4	4
USRDA	1	6	14	5
PMD	0	1	0	1
RDP	0	1	4	2
UDD	0	1	2	1
UFDP	0	1	0	1
RDT	0	0	2	1
PDP	1	0	3	1
PSP	0	0	3	1*
UMADD	1	0	0	1
NOTES:				
@ Eleven additional parties participated in the election without qualifying for the 2nd round.				
*One circumscription seemingly won by ADEMA was awarded to PSP by the courts.				

TABLE THREE				
RESULTS OF MALI'S TWO ROUND NATIONAL ASSEMBLY ELECTIONS				
PARTY	CONSTITUENCIES	SEATS	REGIONS***	#CONSTIT.
	WON			CONTESTED
ADEMA	37*	73**	1,2,3,4,5,6,7,8,B	55
CNID	4	9	1, 4, 8, B	54
USRDA	5	8	2, 4, 5, 7	49
RDP	2	4	1 3	49
PMD	1	6	3	13
UDD	1	4	3	26
UFDP	1	3	4	11
RDT	1	3	5	28
PDP	1	2	5	27
PSP	1*	2	1	42
UMADD	1	1	7	1
NOTES				
*Constituency originally won by ADEMA awarded to PSP by Courts.				
**One seat won by ADEMA was declared vacant because of an ineligible candidate.				
***B=Bamako Communes, 1=Region 1, etc..				

which may be attributed to the extra efforts, including coalition building, put into the election by ADEMA after seeing the results of the municipal elections. A combination of these factors probably came into play. The USRDA, which ruled Mali from 1957 until the Moussa Traore led coup d'état in 1968, was the only other party to demonstrate serious national strength in the legislative elections, even though it finished third in terms of the number of seats. The party, which averaged just over 19 percent of the vote in the 49 constituencies in which it competed, won a total of five circumscriptions in four different regions. The USRDA also captured a very respectable portion of the vote in every region, except the newly created Region VIII (Kidal) in the extreme northern area of the country.

It should be emphasized that the USRDA showing is quite remarkable given the fact that the party was badly and openly split between two competing factions. It had, for all intents and purposes, divided into two separate parties, over the issue of the choice of a presidential candidate, before the election. However, its lists in the National Assembly elections were named prior to the split and so the party factions did not present competing lists in the same constituency. Its greatest areas of strength are in the Gao and Mopti Regions. In Gao it finished first in the first round of elections in three of the four constituencies (with an average of 45% of the vote), while leaving the field to the very localized UMADD in the fourth. In Mopti the USRDA won two constituencies (one without a runoff) and came very close in three others which it lost to a second round coalition between the RDT and ADEMA (the RDT is part of ADEMA's governing coalition, the "Pacte Républicain" in the National Assembly). The USRDA also came close to victory in the Sikasso Region as a result of an agreement for an exchange of endorsements and support in the second round with the PMD.

Throughout the years of military rule and political persecution under Moussa Traore, the USRDA was able to clandestinely maintain at least some of its electoral organization in tact throughout the countryside. This, along with its name symbol and color (although the ballots in the National Assembly election were not in color) recognition, past experience as the governing party, maintenance of its historic geographic base, and well known leaders, helps account for its relatively strong showing.

The CNID is very much a newcomer on the political scene. Like its former ally (ADEMA) in the movement to topple Moussa Traore, it attempted to contest the National Assembly elections in every circumscription in the country. It succeeded in finishing second nationally in terms of the number of seats (9), by winning four constituencies, one in each of three different regions and one in Bamako. It averaged only 11 percent of the vote, with a rather spotty showing nationally. The core of the party's strength in the Assembly, however, comes from the six seats it won in Segou, the home town of the party's founder and presidential candidate, Mountaga Tall. Even there, however, CNID had to invest most of its limited resources in coming from behind with the support of the USRDA and UDD, in order to defeat the ADEMA in the second round. The party's strength is derived from the younger, urban elements in the anti-Traore association. Their contacts, organization and influence in the countryside were therefore somewhat limited. The result was a relatively disappointing showing in the rural areas.

Of the remaining parties winning seats, only the RDP and the historically important PSP made efforts at running nationwide campaigns. However, the RDP was successful in only two constituencies and the PSP in one (as a result of a court ruling). The other parties winning seats, ran campaigns in no more than half of the country, each winning in only one constituency. Basically, they are limited regional and or ethnic based parties, often closely tied to local notable families. In two cases, the UMADD and PDP, the parties won overwhelming first round victories in the home constituencies of their top leaders, but no seats anywhere else. The RDT and the PMD also made strong first round showings and won second round victories in their respective home territories.

b) The Impact of the Electoral System: The Proportional Alternative

The leaders of many of Mali's political parties, including ADEMA, have indicated that the majority electoral system using a party list system in two rounds was not their preference. It was accepted by the National Conference as a means of promoting stability and allowing for the emergence of a clear majority in the National Assembly. In that sense, it worked very well.

Although it is not possible to fully simulate the conditions under which the elections might have taken place and tactics which might have been employed if a proportional system had been in place, the data from the first round National Assembly elections can be used to simulate such an election and allow us to assess party strength and project the likely outcome. It should be noted that a number of alternative scenarios could be sketched using a variety of means of assigning seats proportionally. Here, the vote for each party has been totaled for each of the eight regions and Bamako. The seats allocated to each region under the current system were then distributed among the parties proportionally, using the same system employed in the municipal council elections, proportional with the system of the strongest remainder (see Table Four below).

The big loser in such a hypothetical proportional election is the ADEMA which would drop from 74 to 43 seats. The biggest gains under a proportional system would be registered by the USRDA, which shows an increase of 13 seats, from 8 to 21. Significant gains would also be registered by the RDP which would gain 6 seats, giving it a total of 10. The CNID would add several deputies (4) for a total of 13. Even so, CNID would drop from second to third place in the Assembly behind the USRDA.

Among the smaller parties, the PDP and the PSP would each gain 4 seats, giving them each a total of 6 and the RDT, currently part of the ADEMA led "Pacte Républicain" coalition, would gain two seats, giving it a total of 5. The UFD, PUDF, PMPS and PDJ, none of which are currently represented in the National Assembly would each have one seat in a proportionally allocated legislature. The UFD and the PMD would lose two and four seats respectively, and the UMADD would lose its one seat.

TABLE FOUR			
HYPOTHETICAL RESULTS OF MALI NATIONAL ASSEMBLY ELECTION UNDER A SYSTEM OF PROPORTIONAL REPRESENTATION BY REGION			
PARTY	SEATS ACTUAL*	SEATS PROPORTIONAL***	NET GAIN/ LOSS PROP.
ADEMA	73**	43	-30
CNID	9	13	4
USRDA	8	21	13
PMD	6	2	-4
RDP	4	10	6
UDD	4	4	0
UFD	3	1	-2
RDT	3	5	2
PDP	2	6	4
PSP	2	6	4
UMADD	1	0	-1
UFD	0	2	2
PMPS	0	1	1
PDJ	0	1	1
PUDP	0	1	1
NOTES			
*Seats actually won using a majority electoral system with party lists in multi-member districts in two rounds.			
**One seat won by ADEMA was declared vacant because of an ineligible candidate.			
***Seats which would have been won by each party using a proportional electoral system, party list, by region.			

As can be seen, a proportional electoral system of this type would leave the National Assembly without a majority party. The formation of a majority coalition would necessitate the inclusion of at least three parties. Building a majority coalition would require a minimum of 59 seats. ADEMA would still be well placed to form such a coalition. Possibly the most likely alliance would put ADEMA and CNID together with one of the smaller parties, possibly the RDT. Since ADEMA would have need of CNID support and taking account of the common origins and concerns of both parties, it is not out of the question that recent differences could be overcome and a satisfactory accord could be reached between the two parties for distributing ministerial and committee posts.

Alternatively, if it retained its current allies, USRDA (Haidara wing), the RDT, and the UFD, the ADEMA led group would have at least 53 seats, and depending on the alliances of the additional USRDA deputies, theoretically as many as 61. It is probable that additional parties would have to be brought in to produce even a minimal majority. The issue of the 13 deputies to be elected by overseas Malians would become critical. Given the distribution of parties in the current parliamentary groups, it does not appear likely that any other party or group could form a majority coalition without ADEMA. Could a stable coalition have been constructed out of the hypothetical situation indicated in Table Four. The answer is a qualified yes. Under both of these scenarios the opposition would be led by the USRDA (Congrès Extraordinaire, Konaté group).

Although some have argued that a proportional system would be fairer than the current majority system, the majority system clearly has some advantages as well. First and foremost is the greatly increased likelihood of producing a majority party or coalition, as is in fact the case in Mali. The mostly multi-member districts, under the existing majority system, force the parties to bring diverse ethnic, familial and local interests into the party. Since the entire list is elected in each circumscription, and most "cercles" are ethnically mixed, the result is a relative balance in the distribution of seats between groups. Thus, ethnic or family rivalries which might otherwise cause non-associational groups to form their own parties, are obviated. In some cases, the députés on the same list will divide up the circumscriptions into arrondissements in which they individually act as the representative, almost as would be the case in a single member district.

The parties in Mali which wish to assert influence nationally are therefore forced to build a relatively broad coalition of ethnic and regional groups. This system also acts as a safety valve, creating the possibility for regionally concentrated groups and their parties to win small blocks of seats. Good examples of this are the UFDP, the RDT, and the PMD.

F. The Presidential Elections

The presidential elections in Mali give yet another indication of the strength of the parties and their respective regional bases. The election of the president, like the elections for the National Assembly, was conducted using a majority electoral system in two turns. The candidates, however, officially campaign as individuals rather than as representatives of

political parties. The vote is therefore, at least theoretically, for the individual, although the candidates use the party colors and are identified with the party by the public. If a candidate wins a majority of the vote nationally in the first round, he/she is elected. Barring a majority in the first round, only the top two candidates compete in a runoff to determine the Presidency.

The first and second rounds of the presidential elections represented the fifth and sixth times respectively that the citizens of Mali were called upon to vote in a six month period. Voter turnout could be expected to be relatively light. This was in fact the case. Nationally, the nine presidential candidates attracted only 23.6 percent of the voters. The best regional turnout was registered in Bamako, 33.7 percent, followed by Gao, 28.9 percent with the lowest being in Kidal (17.5 percent). By electoral circumscription, Bamako's Commune III finished in first place nationally with a turnout of 43.4 percent. The consistency of the turnout by electoral circumscription between the first round National Assembly elections and the first round Presidential elections is remarkably high ($r=.86$), indicating little local or regional change in participation rates.

The highest turnouts by circumscription ("cercles") were obtained in those areas where particular party candidates had their local bases and were able to present the most serious opposition to the ADEMA candidate, Alpha Konaré. For example, the town of Mopti, the home base of the RDT had a turnout of 30.2 percent, the turnout in Gao, Konaté's (USRDA) home area, the traditional core of the RDA, was also relatively strong in three of the four circumscriptions. Turnout in the nineteen communes (28.5%) was, as with the National Assembly elections, significantly higher ($T=3.78$, $p<.001$) than in the remaining thirty six, more rural "cercles" (21.3%).

The second round of the presidential elections produced a national turnout of just 20.9 percent. About 185,000 fewer Malians voted in the second round than in the first. The almost certain victory of Alpha Konare and the elimination of seven of the eight other candidates undoubtedly had some impact. The highest turnout was again registered in Commune III (37%), followed by Gao (Gao, Ansongo, and Bourem, all with about 34% participation).

The distribution of the presidential vote in the first round, differed from that of the National Assembly elections in one important respect. The support for the ADEMA candidate, Alpha O. Konaré, was significantly higher than the support obtained by his party in the parliamentary elections. Nationally, Konare received about 45 percent of the vote. He finished in first place nationally, in first place in every region, and in first place in 46 of the 55 electoral circumscriptions in the country. In eight of the remaining nine he finished in second place, and in one, Youwarou, he finished third. In the second round of the election, Konare and ADEMA won an overwhelming 69 percent of the vote, finishing first in every region, in 52 of the 55 circumscriptions, and among Malians living abroad.

The nine circumscriptions in which Konare did not finish in first place in the first round, are

all areas which had been won by parties other than ADEMA in the National Assembly elections as well. These circumscriptions, in fact represent the core areas for the various opposition parties and their presidential candidates. Mountaga Tall, the presidential candidate and leader of CNID, finished first in Diema and Segou (Tall's home town), two of the four constituencies CNID won in the National Assembly. Tall also had a respectable showing, finishing second to Konare in the other two CNID constituencies. In similar fashion, Amadou Niangadou, the RDT's presidential candidate finished first in Mopti, the sole constituency controlled by the RDT in the National Assembly, and Idrissa Traoré of the PDP did the same in Bankass, the PDP stronghold in the Assembly. Almamy Sylla (RDP) was successful in San, the core area of the UFDP, an RDP partner in the National Assembly parliamentary group. He also finished an extremely close second (less than 1% behind) to Konare in the RDP constituency in Yelimane (Region I, Kayes).

The case of the USRDA (Konaté wing) deserves a bit more attention because its candidate, Tieoulé Konaté, finished second nationally and thus participated in the runoff. Konaté finished first in the first round elections in Tenekou and Youwarou, both RDA held constituencies in the Mopti Region, and finished an extremely close second in Gao and Ansongo both in the Gao Region, the historic base of the RDA. The Konaté candidacy also finished first in Koutiala, where its parliamentary ally the UDD is dominant and in Menaka, the UMADD fiefdom. In one of the two remaining USRDA constituencies, Nara, Konaté finished a close second. If the USRDA factions had been united, the margin between Konaté and Konare in this constituency would have been razor thin. In the last of the RDA constituencies, Baroueli, the competing Haidara wing of the party is dominant and took most of the USRDA vote. Once again, if the party had been united behind a single candidate, it would have finished in second place instead of third and fourth in these areas.

In the second round of the election, Konaté was able to win in just three constituencies, Ansongo and Menaka, both in the Gao Region, and Youwarou in the Mopti Region. The USRDA (Konaté wing) had its best showing regionally in Gao where it took almost 47 percent of the vote. The Haidara wing of the RDA endorsed the ADEMA candidate in the second round and the Konaté showing in the Baroueli constituency was quite small (34%) for an area with a USRDA deputy.

ADEMA demonstrated its broad based national strength, built upon its core National Assembly constituencies, the sound reputation of its presidential candidate as a leader of the democratization movement which culminated in the "événements", and the solid base of teacher, and medical (primarily nurses) personnel supporters who form the core of the party's organization in the countryside. It should also be noted (see Table Seven) that the vote for the ADEMA was significantly higher in the rural than in the urban areas for both the National Assembly and Presidential elections. In addition to its strong rural based organization, some of the ADEMA success in the presidential campaign can also be attributed to Konaré himself. During the campaign, he personally appeared in every circumscription and even in many "arrondissements" throughout the country. The importance of personally seeing and hearing the candidate, especially for the largely illiterate

rural population, can not be ignored. Most other candidates delegated responsibility to others to speak for them in the rural circumscriptions, while confining their own campaigning to the larger towns.

TABLE FIVE			
MALI PRESIDENTIAL ELECTIONS			
CANDIDATE	PARTY *	%VOTE 1st ROUND	%VOTE 2nd Round
Alpha O. Konare	ADEMA	44.95	69.01
Tieoule M. Konate	USRDA **	14.51	30.99
Moutaga Tall	CNID	11.41	
Almamy Sylla	RDP	9.44	
Baba A. Haidara	USRDA***	7.37	
Idrissa Traore	PDP	4.1	
Amadou Aly Niangadou	RDT	4.01	
Mamadou dit M. Diaby	PUDP	2.16	
Demba M. Diallo	UFD	2.04	
TURNOUT		23.9	20.9
Notes:			
*Officially candidates for the presidency do not run as representatives of a party			
**USRDA "Congrès Extraordinaire" group, Tieoule Konate wing.			
***USRDA "Comité Directeur" group, Baba Haidara wing.			

TABLE SIX										
1ST ROUND PRESIDENTIAL FINISH BY CANDIDATE, PARTY AND REGION										
CANDIDATE	PARTY	REGION and FINISH (rank)*								
		1	2	3	4	5	6	7	8	B
Alpha Konare	ADEMA	1	1	1	1	1	1	1	1	1
Tieoule Konate	USRDA**	-	2	2	3	2	3	2	-	3
Moutaga Tall	CNID	3	-	-	2	-	-	-	2	2
Almamy Sylla	RDP	2	3	3	-	-	-	3	-	-
Baba Haidara	USRDA***	-	-	-	-	-	2	-	3	-
Amadou Niangadou	RDT	-	-	-	-	3	-	-	-	-
Notes:										
*First, second and third place finishers only.										
**USRDA "Congrès Extraordinaire".										
***USRDA "Comité Directeur".										

TABLE SEVEN
VOTE FOR ADEMA BY URBAN/RURAL

<u>Election</u>		<u>%Urban*</u>	<u>%Rural*</u>	<u>p<</u>
National Assembly, 1st Round	33.6	39.8	.05	
Presidential, 1st Round	40.8	50.5	.01	

*There are 19 urban circumscriptions (13 municipalities and 6 Bamako communes) and 36 other (rural) circumscriptions ("cercles") in Mali.

There is seemingly only one other party which at the moment is capable of mounting a serious national campaign, the USRDA. The relatively high, negative correlations between the USRDA and ADEMA votes in the first round presidential elections, indicate that these two parties are competing for the same voters, voters who in fact constitute a majority of the Malian electorate. Analysis of these data suggest that the USRDA should be regarded as the most serious opposition party, and the party best placed to potentially challenge and succeed the ADEMA to power.

However, the splits in the USRDA made it much more difficult to mount a successful campaign. For future elections it is worth noting that the Konate wing of the party shows a good balance between support from urban and rural voters, while the smaller, Haidara wing is much more urban based. In the Presidential election (first round) Haidara received 9.5 percent of the vote in the communes and only 4.6 percent in the rural "cercles". Konate, on the other hand, won 14.1 percent of the urban vote and 15.2 percent of the rural vote.

In order to get a better feel for the potential strength of the USRDA nationally, the sum of the votes for Haidara and Konate was calculated. Correlations were then computed between this total USRDA vote and the votes for each of the two wings. The correlation between the vote for the Konate wing and the total USRDA vote ($r=.86$) is considerably higher than the correlation between the Haidara vote and the total RDA vote ($r=.36$). These voting data clearly indicate that the Konate wing has a broader geographic base and the loyalty of the overwhelming number of USRDA supporters and therefore the strength of the party in the future. The low, but negative correlation between the votes for the two wings of the party ($r=-.16$) indicates that the split hurt the party, but only in select areas. In addition it increased the rate of nonparticipation or defection of supporters to other parties. The potential for the USRDA to emerge as a serious opposition force is there.

The other parties are, as currently constituted, too small or too limited in their regional bases to determine the outcome of a national election. However, both the CNID and the RDP apparently have the core strength around which a serious opposition could coalesce. Both of these parties, however, suffer from a slight urban bias and relatively weak organizations in the rural areas.

G. Summary and Conclusions

By all indications, the electoral process and the party system emerging in Mali are fully consistent with the principles of sound democratic governance. The elections at the municipal, National assembly, and presidential levels, in spite of some predictable irregularities, were fair and open. All parties had the opportunity to register, to present candidates, express their views freely in open, competitive campaigns, gain access to the media, including a number of independent newspapers and radio stations, win seats, and forge coalitions after the election results were in. The party system, which started with 47 parties is experiencing a shakeout period. Eleven parties are represented in the National Assembly, and nineteen on the municipal councils. Three national parties (ADEMA, USRDA, and CNID) have emerged from the fray, and several regional or local parties are likely to continue to carry some weight in the future.

The strongest party, ADEMA, controls a commanding majority in the National Assembly. However, the government is regularly confronted by serious questions, proposals, and amendments raised by both the opposition and from within the ruling party and its coalition, the "Pacte Républicain". Debate in the National Assembly is managed fairly, is open, and is often quite contentious. The députés clearly view their role as involving, if not dominated by, constituency service, especially vis-à-vis the bureaucracy and the territorial administration. The nascent parliamentary groups can be expected to formulate serious alternatives to government policies.

At the local level, the opposition is in power (holds the mayor and a majority of the council) in a number of important communes, including five of the six in Bamako. Although relations with the central authorities have not been entirely smooth, once the appropriate texts have been modified, municipal governments can be expected to function normally. Once the rural communes are established and the whole system of local government in place, it will be possible to get a better understanding of the degree of democratic tolerance existent in the system. The way in which the communes, urban and rural are allowed to function should be one of the best available indicators of the degree to which the government and the ruling party are committed to democracy. At this juncture there appears to be some room for optimism. External support to insure the future growth and development of Malian democracy is clearly indicated.

H. Recommendations

Using the Charlick definition of democratic governance (1992) as a point of departure, emphasis in this paper has been placed on identifying fundamental needs, especially those needs felt directly by Malian actors in the democratic drama being played out in the country. The objective is to provide assistance in the short and middle term which can be financed by the donor community, including NGOs and private foundations.

A. General Recommendations

Given the diverse needs of the country in terms of assistance in the area of democratization, and broad interest in reinforcing what, at this point seems to be a very positive set of changes being put in place by the Malian people and their representative organizations and institutions, a mechanism for coordinating such assistance seems to be needed. There are many forms which such a mechanism could take, ranging from the creation of a formal, permanent Foundation for Democracy in Mali to the maintenance of a relatively informal committee for the purpose of exchanging information among donors. The advantages and disadvantages of each approach need to be examined further, but every effort should be made to insure that the overall approach taken is long term as well as efficacious both substantively and financially.

B. Specific Recommendations

Political parties capable of meeting the needs of the country in terms of democratic governance have begun to develop in Mali. Two key areas need to be addressed if these organizations are to successfully play an important role in support of democratic governance: **1) increasing capabilities to communicate regularly and effectively between the citizenry and elected representatives on the one hand and administrative authorities, at all levels, on the other; and 2) improving the capabilities of elected officials and representative institutions to identify, formulate, and evaluate policy options and to present constructive alternatives.** The following actions are recommended to address these two vital needs if political parties are to survive and fulfill their vital functions.

1. Communications

(a) Computerization - Political parties, both of the opposition and the members of the governing coalition have an immediate need for equipment necessary to produce newsletters (in both French and national languages), to provide audiovisual presentations on citizen rights and government policies, actual and proposed, and for providing an opportunity for direct contact between electors and their representatives, thereby increasing citizen input into the process of governance. For these purposes **political parties in Mali have an immediate need for a small number of micro computers, printers (one or two per party represented in the National Assembly), software and a short program of workshops** designed to assist with the production of newsletters, lists of voters and party members and supporters, information, both written and oral for distribution to constituents, and production of letters to administrators on behalf of constituents. Alternatively, or in addition, such equipment should be provided to each of the five parliamentary groups in the National Assembly.

(b) Audio-visual Equipment - Given the extremely low level of literacy in the country, **the parties have a need for audio and audio-visual equipment necessary to deliver information to the Malian citizenry, especially those living in the rural areas** where television is not generally available. Information, including discussions at local

meetings could be communicated orally in local languages at all levels by tape recorders and cassettes distributed to the major parties and their sections ("cercle"), "sous-sections" (arrondissements), or Committees (village). Battery operated video cassette recorders and players would be extremely useful for mobile presentations.

(c) Training - Workshops, short courses, and internships, should be organized in Mali and in the U.S. and third countries on some of the following themes: 1) the role of parties in democratic governance; 2) communication techniques and the production of audio-visual materials; 3) marketing, survey research and the measurement of public opinion; 4) the provision of constituent services; 5) party organization and management techniques; and 6) the role of the party under a system of decentralized administration.

2. Policy Analysis

(a) Training - is needed in the areas of policy analysis so that elected officials and parties can better aggregate interests and evaluate and design legislation and/or administrative procedures presented by the government, associational groups, or individual citizens. Currently, neither the parties nor the legislature have the staff or the technical capabilities to adequately assess policy proposals brought before them. Parties have technical support committees composed of members who have a variety of backgrounds and skills. These individuals and members of associational groups and NGOs should be offered workshops both in Mali and the U.S. which are designed to improve their ability to assist the parties and elected officials in the design and evaluation of public policy proposals. Training could include social, economic and financial assessment and public opinion assessment and analysis. This training would thus increase the capabilities of parties in an extremely cost effective way, by reward those who are assisting the parties on their own time and without creating the need to establish additional permanent bureaucracies.

(b) Equipment - Two types of support are required in this area, documentation and computer equipment. The same computer equipment provided to the parties to improve their communication capabilities could be used to support the data analysis and report writing components of the policy analysis activities. In addition, basic reference works, preferably in French, should be made available in a central documentation center. The new, but currently totally empty, library at the National Assembly could serve as the core collection and distribution point for such documents. These should include works on research methods, policy analysis, statistics, and legal documents, texts and codes. As an alternative, a central micro-computer center could be established, possibly at the National Assembly, with a dozen or more microcomputers and a few printers made available to all parties, parliamentary groups, and some associations and NGOs.

ANNEX - LIST OF PARTIES

LISTE DES PARTIS ENREGISTRES A LA DATE DU 6 NOVEMBRE 1991

NOM DU PARTI			NOM / PRESIDENT
1-	R.D.P.	Rassemblement pour la Démocratie et le Progrès	Abdoul Wahab BERTHE
2-	P.J.D.	Parti Démocratique pour la Justice	Dr Abdoul BAH
3-	P.D.P.	Parti pour la Démocratie et le Progrès	Bakary Sony DIARRA
4-	U.D.D.	Union pour la Démocratie et le Développement	Moussa B. COULIBALY
5-	R.D.A.	Union Soudanaise RDA	Dr Mamadou GOLOGO
6-	P.U.P.M.	Parti pour l'Unité et le Progrès au Mali	Nock Ag ATTIA
7-	U.F.D.	Union des Forces Démocratiques	Maître Demba DIALLO
8-	P.M.D.	Parti Malien pour le Développement	Adama SANOGO
9-	P.E.I.	Parti Ecologiste pour l'Intégration	Ibrahima TRAORE
10-	U.F.D.P.	Union des Forces Démocratiques pour le Progrès	Youssouf TRAORE
11-	P.R.D.T.	Parti du Renouveau Démocratique et du Travail	Moussa T. TRAORE
12-	P.L.M.	Parti Libéral Malien	Dalla DOUCOURE
13-	P.S.P.	Parti Progressiste Soudanais	Boukadary COULIBALY
14-	P.M.P.S.	Parti Malien pour le Progrès Social	Fayinke TIBO
15-	R.P.D.I.	Rassemblement pour le Progrès et le Développement Intégral	Ben Boubacar El HABIB
16-	R.J.P.	Rassemblement pour la Justice et le Progrès	Kady DRAME
17-	P.P.S.	Parti de la Prospérité et de la Solidarité	Abdoul_ye KANOUTE
18-	U.P.R.	Union Pour la République	Cheick Amadou NIONO
19-	S.P.R.	Solidarité, Parti pour le Renouveau	Diadié DAGNOKO
20-	U.M.A.D.D	Union Malienne pour la Démocratie et le Développement	Nansat Katia SEYDOU
21-	R.T.M.	Rassemblement Malien pour le Travail	Abdoulaye MACKO
22-	P.T.R.	Parti du Travail et du Renouveau	Malick Aba GUISSSE
23-	P.S.M.	Parti Socialiste Malien	Démissionnaire
24-	P.S.D.M.	Parti Socialiste et Démocratique	Cheick A. BARADJI
25-	R.D.T.	Rassemblement pour la Démocratie et le Travail	Amadou A. NIANGADO

26-	P.L.D.	Parti Libéral Démocrate	Tiémoko M. DIAKITE
27-	S.D.U.S.	Social Democratie pour l'Unité et le Travail	Abdoulaye B. CISSE
28-	C.N.I.D.	Congrès National d'Initiative Démocratique	Maître Mountaga TALL
29-	A.D.E.M.A.	Parti Africain pour la Solidarité et la Justice	Alpha Oumar KONARE
30-	U.N.D.P.	Union Nationale pour la Démocratie et le Progrès	Fousseyni SIDIBE
31-	R.U.P.	Rassemblement pour l'Unité et le Progrès	Ladji O. DIAWARA
32-	P.S.D.	Parti Social Democratie	Oumar SISSOKO
33-	M.P.L.O.	Mouvement Populaire pour la Lutte Ouvrière	Issa DIARRA
34-	P.M.P.	Parti Malien pour le Progrès	Modibo BABO
35-	P.D.D.	Parti pour la Démocratie et le Développement	Bakary TOGOLA
36-	F.P.M.	Front Populaire Malien	Mamadou Papa SIDIBE
37-	M.P.D.R.U.A.O.	Mouvement Populaire pour le Développement et la République Unie d'Afrique de l'Ouest	Pr. Boubou SALL
38-	U.D.S.	Union Démocratique pour le Salut	Attaher TOURE
39-		Parti Social Rationaliste Malien pour la Promotion Continentale Africaine	Cheick Abdel Kader DOUMBIA
40-	C.D.D.N.L.	Creuset Démocratique du Développement Nationaliste et Laïc	Niama Sory IBRAHIMA
41-	R.R.F.M.	Rassemblement pour la Rehabilitation de la Femme Malienne	Abdoul Karim SISSOKO
42-	P.R.	Parti du Renouveau	Sory Alpha DIARRA
43-	R.P.R.	Rassemblement Pour la République	Massiré COULIBALY
44-		Front National pour le Renouveau et la Sauvegarde de l'Intégrité Territoriale	Ibrahim DIAKITE
45-	P.U.D.P.	Parti pour l'Unité, la Démocratie et le Progrès	Mamadou Maribatrou DIABY
46-	P.R.M.	Parti de la Renaissance Malienne	Samba DIARRA
47-	U.S.D.	Union Socio Démocrate	S

III. Decentralization in Mali

A. Introduction

Since the overthrow of the Moussa Traoré regime on March 26, 1992, Mali has made impressive gains in creating a democratic system. Malian leaders see decentralization as an important instrument for strengthening their young democracy. Much of the proposed legislation for reforming Mali's local government institutions addresses the five dimensions of democratic governance underscored by the Africa Bureau (Charlick, June 1992): (1) public management effectiveness; (2) legitimacy and public responsiveness; (3) accountability; (4) information openness; and (5) pluralism in the policy domain.

Mali's commitment to democratic governance can be seen in proposed measures to (1) reduce the state's tutelage over local government institutions; (2) streamline the state bureaucracy and simplify bureaucratic procedures; (3) enhance transparency and accountability by providing citizens with easy access to public records; (4) transfer authority and control over financial resources to locally elected officials; (5) improve communications to better inform the general public concerning their rights and obligations.

This section looks at Mali's recent decentralization efforts and provides an assessment of current policy trends and local government operations. It also identifies critical local government and decentralization needs and provides recommendations for strengthening democratic processes in the area of decentralization. The analysis also stresses the crucial role of civil society in the democratization process.

B. The Political Context for Malian Decentralization

Decentralization as a major national objective is not new to Mali. From 1986 until its downfall, the Moussa Traoré regime expressed a strong interest in decentralization and held numerous national and regional seminars to discuss the issue. The debate over decentralization policy took place within the context of a semi-military one-party system which had been created from the top by Moussa Traoré in the late 1970s. In reality, the debate was an internal one between UDPM party leaders seeking to gain more popular support by controlling and allocating resources at the local level and the state bureaucracy which wished to maintain its heavy-handed tutelle over the embryonic local government institutions created in the mid-1980s (Gellar et al, 1990). For UDPM party leaders, decentralization meant their gaining control over local government funds and development budgets. For their part, the state bureaucracy defined decentralization largely as administrative deconcentration and greater freedom of action for local state officials and regional planners. For President Traoré, decentralization offered an attractive alternative to democratization. Decentralization could be presented to national and world public opinion as a sign that Mali was undergoing political liberalization. At the same time, he and his one-party regime could continue to hold all the levers of political power while resisting demands for more freedom and the establishment of a multiparty system.

Traoré's adamant refusal to end one party rule and his brutal repression of popular demonstrations in January and March 1991 led to his overthrow on March 26, 1991 and the establishment of a transition regime led by Lieutenant-Colonel Toumani Toure (ATT) who faithfully kept his promise to establish basic political and civil liberties and a multiparty regime within a year after taking power.

The evènements leading up to March 26, 1991 thus created a new political context for decentralization. Mali's new political leaders and national public opinion quickly identified decentralization as a key element of the democratization process. The proceedings of the National Conference, the platforms and programs of Mali's major political parties, the national press, and national policy statements by President Alpha Konare and Prime Minister Yanoussi Toure all expressed a strong commitment to decentralization. Moreover, there was a general consensus that decentralization primarily meant a devolution of formal authority from the state to local government institutions which would be run by representatives of the people elected in freely contested democratic elections. Decentralization was also widely perceived as a means of curbing the often arbitrary powers exercised by state officials by sharply reducing their tutelage powers.

C. Decentralization Rule Changes

Despite the general commitment to decentralization, the implementation of concrete decentralization reforms and measures has been delayed by the priority which Malians have given to establishing a new constitution and national level institutions. The fruits of the National Conference were a new constitution, approved by the people in January 1992, an electoral code, and a political parties charter which laid down the rules of the game for an open democratic multiparty system. The Constitution itself (Articles 97 and 98) had little to say about the form which local government institutions would take other than that they would be "freely administered by elected councils in conditions defined by law". However, it did highlight the importance of local government institutions by creating the Haut Conseil des Collectivités, a consultative body representing the interests of local and regional government vis-à-vis the national government in all matters concerning policies affecting the localities.

The establishment of the constitutional rules for Mali's young democracy was quickly followed by national presidential and legislative elections and municipal elections in Mali's nineteen urban communes. While, the new rules of the game governing the operation of national level institutions have been spelled out pretty clearly, the old rules establishing the form, powers, and operational rules for local government bodies--the collectivités décentralisées-- still remain in force in several areas:

- * the recently elected municipal councils, while more representative of the public must still operate under the 1966 communal code which gives state officials the tutelary power to control the execution of local government budgets;

- * the six urban communes of the District of Bamako are still subject to the tutelle of

the Governor because the statutes affecting the organization of the District of Bamako have not been changed;

- * the elected arrondissement, cercle, and regional councils, have not met since the overthrow of the Traore regime and will not meet until new rules are put in place, thus leaving the rural populations unrepresented at the local level;

- * formal elections at the village level have not been held since 1986 and will not be held until new decentralization reforms are passed. Until then, the old rules continue to remain on the books.

D. National Decisionmaking Processes

The Commissariat à la Reforme Administrative, (CRA) the Prime Minister's Office, and to a lesser extent, the Ministry of Territorial Administration (MAT) have been involved in drafting position papers and legal texts that will serve as the basis for decentralization reforms calling for greater devolution of powers to local government bodies. Most of the texts now being elaborated are in draft form and subject to further revision. None to date have been approved by the Council of Ministers and presented to the National Assembly. However, it is likely that some or most of the proposed rule changes will be acted upon by the end of this year or early next year. Once the new rules are approved, village elections can be held and the new elected rural councils can be put in place. Changes in the communal code and District statutes will also affect the operation of municipal government and commune-District relations in the District of Bamako.

At the present time, the National Assembly has not been very much involved in formulating decentralization policy. The only major legislation that has been approved by the National Assembly as of early September 1992 has been the creation of the rules for choosing the National Councilors to the Haut Conseil des Collectivites and their remuneration.

Once a proposed law has been approved by the Conseil des Ministres, the bill is then sent to the President of the National Assembly who distributes the text to the relevant commissions for study. The National Assembly has a commission which deals with decentralization and territorial administration issues. The minister from M.A.T. defends the legislation before this commission which is free to make amendments.

Since the National Assembly is controlled by an ADEMA majority, the president of the Territorial Administration and Decentralization Commission (which also deals with constitutional and legal matters) is an ADEMA deputy while the members of the presidential majority dominate the commission. However, minority party deputies also sit on the commission and are free to criticize and make amendments. To date, ADEMA has given its deputies considerable leeway in expressing their individual opinions. Thus, the National Assembly is by no means a rubber stamp automatically approving government proposals without change. On the contrary, the National Assembly has demonstrated a certain degree of

independence vis-à-vis the executive branch through vigorous debates and frequent amendments of projets de loi introduced by the government. This independence is also reflected in internal commission debates. The commission is free to make amendments which the MAT and the government can accept or reject. The General Secretariat of the Prime Minister's office then drafts the final texts to be sent to the National Assembly.

Once the proposed legislation clears the relevant commissions, it is presented to the National Assembly for debate and approval. In matters concerning decentralization, the Minister from M.A.T. generally defends the government's proposal and answers questions addressed to him by the deputies. Amendments can be made by individual deputies. If approved by the National Assembly, the government has to consider the amendments and has the option of accepting them, coming up with a compromise proposal, or rejecting them, and coming back to the National Assembly with the original legislation. In the final analysis, the National Assembly has the last word since it must vote the law.

The National Assembly in general and the specialized commissions in particular are disadvantaged vis-a-vis the executive branch which can call on a wide range of experts to provide position papers and analysis. The National Assembly and the specialized commissions thus have no policy analysis unit or documentary center at their disposition which can be used by the deputies to better inform their decisionmaking. Present rules also give the deputies and specialized commissions relatively little time to study the proposed legislation. This situation has been compounded by pressure on the part of donors and national leaders to push through a wide range of institutional reforms and programs as quickly as possible.

Opposition deputies have complained that they have been left out of the national decisionmaking process and not given sufficient information concerning government plans with reference to decentralization programs. They also fear that the government will redraw administrative boundaries and establish electoral rules that will favor the majority party.

E. Local Government Reforms

1. Municipal Government

Mali has 19 urban communes. Six are located within the District of Bamako while the other thirteen lie outside of Bamako and have a slightly different status.

(a) Election Rules

The January 19, 1992 municipal elections were the first multiparty elections held in Mali since independence. The presence of seven to eleven parties contesting the elections in any one commune combined with an electoral system based on proportional representation prevented any one party from obtaining an absolute majority. This necessitated the formation of party coalitions to form a majority which chose a mayor from the ranks of the municipal

councilors. In most instances, opposition parties banded together to prevent ADEMA from taking the mayor's position despite the fact that ADEMA ran ahead of the other parties in most communes. Thus, while ADEMA ran ahead of the other parties in all six Bamako communes, it managed to elect only one mayor.

(b) Municipal Council Organization and Powers

Once elected, the mayor chooses a bureau of deputy mayors. In practice, these come from the ranks of the coalition in power with minority councilors left in the cold. On the other hand, minority councilors sit on all of the commissions. The number of commissions vary but touch all aspects of urban life-- health, education, sanitation, environment, urban planning, employment, etc. The finance commission is the most important since it is responsible for drawing up the budget. The number of councilors (varying from 31 to 55) is related to the population of the commune.

The municipal council's functions and powers are determined by the 1966 communal code and give the council responsibility for providing a wide range of urban services-- street maintenance, sanitation, garbage collection, street lighting, etc. hiring communal personnel, and elaborating the budget. Most municipal councilors have little training and experience in these areas, especially in municipal finances.

Proposed rule changes call for the transfer of power over the execution of the budget from state officials to the mayor. Many mayors are acting as though these rule changes have already been made even though the 1966 communal code is still in effect. Thus, the mayors are assuming responsibility over municipal spending matters and budget implementation.

(c) The "Quartier"

Communes are divided into quartiers which are the basic grassroots units of urban communal life. The chef de quartier plays an important role in collecting taxes and serving as a link between the local population and the commune. In most cases, the conseil de quartier chooses a descendant of one of the quartier's founding families as chef de quartier while the mayor formally names the chef de quartier who serves a dual role as the representative of the mayor in the quartier and the representative of the people vis-a-vis municipal government. Each council has 5 to 15 members depending on the number of people in the quartier.

Proposed rule changes call for giving the conseil de quartier a greater voice in defining neighborhood needs and in proposing development strategies and the means to implement local development programs. The number of council members depends on the size of the neighborhood. Election to the council is by universal suffrage with all adults over 18 being eligible to vote. The chef de quartier presides over the council meetings.

Under the Traoré regime, local UDPM party leaders controlled quartier political life, often bypassing traditional leaders. Under Mali's multiparty system, municipal political leaders are

more responsive to traditional local community leaders who have greater legitimacy with the quartier populations. They also seem to be more responsive to local problems.

ONGs responsible for community organization and the production of urban services generally work at this level. In Bamako and other urban communes, ONGs associated with the World Education Urban Revitalization Project have created groupes civiques at the quartier level which meet to discuss their problems and priorities and to make decisions affecting the life of their neighborhood. In Bamako, the emphasis has been on sanitation and garbage collection issues. Voluntary associations like Parent-Student Associations (APEs) are also usually organized at the quartier level.

ONGS and voluntary associations sometimes come into conflict with communal political leaders and/or government officials seeking to control and or coordinate public service activities taking place within their jurisdiction. Mayors and other municipal officials feel that they should be consulted and asked to approve projects taking place in their commune while many ONGs and voluntary associations insist upon their freedom of action. The presence of active and vigorous ONGS and voluntary associations provides citizens with alternative means of obtaining vital public services not provided by the municipality or the state. It also puts more pressure on local politicians to deliver on their promises.

(d) Tax Collection and Budgetary Issues

The texts give the municipal council the task of working for the development of their community. Budgetary resources are rarely large enough to permit the council to provide many services. Much of the budget goes to pay for salaries of communal personnel with little left for equipment and supplies needed to provide services. Outside of Bamako, the main source of revenue is the patente. In Bamako, the patente goes to the District, thus depriving the communes of a major source of income. This explains why municipal budgets outside of Bamako are often higher than those in Bamako communes.

Municipal finances suffer from low tax recovery rates because taxpayers don't see the relation between taxes and services. Urban services are generally poor or nonexistent. Under the Traore regime, urban politicians were reluctant to push their constituents to pay unpopular taxes. This led to constant budget deficits and a paucity of services. The transition to democracy has created a greater demand for public services and put more pressure on local politicians to deliver them. Mayors and municipal councilors will have to work hard to educate their constituents as to the importance of paying taxes and expanding the tax base if urban services are to be financed and expanded to meet growing demand. They will also have to provide decent services and exercise sound financment management to restore the credibility of urban government.

One of the most serious problems facing the newly elected municipal councils is that they must currently work with municipal budgets elaborated by the special state delegations named by the transition government to run municipal government. This situation is compounded by

the fact that the current communal code does not give them full financial powers to "implement" the budget. This has led to a certain confusion as to who is responsible for "implementing" the budget and for non-compliance with existing law. Thus, some mayors have deposited tax revenues collected in their commune in special communal bank accounts rather than sending the money to the treasury as the law requires. Some mayors, like Mayor Boucoum in Commune IV, have been very successful in collecting taxes and service fees to support their budget while others find their communes in dire financial straits because of poor tax recovery rates.

The mayors are looking for new sources of revenues. Within the District of Bamako, the selling off of public lands within communal boundaries offers communes an important source of revenue. However, the mobilization of receipts from this source will require greater clarification of current land tenure and property rights rule and simplification of the procedures needed for citizens to buy city lots and to obtain building permits.

(e) Bamako District-Commune Relations

One of the major political issues within the District of Bamako is the distribution of budgetary resources and powers between the District and Bamako's six communes. Under current rules, the Governor presides over district council meetings and implements the budget. The mayors have complained that the Governor of the District has not yet convoked a meeting of the District Council which has the power to approve the District budget. They see this as a usurpation of their power by the governor.

Under the present law, two-thirds of the district councilors are chosen by the six communes while the other one-third consists of representatives of socio-professional groups named by the governor. During the Traore regime, various groups associated with the party--e.g. the UNFM, UNJM, UNTM--were named by the governor. According to the District Governor, part of the delay in convoking the district council lies with the difficulty of finding a new formula concerning the naming of representatives of socio-professional groups to sit on the council now that some of the groups and organizations associated with UDPM no longer exist. Thus, the proliferation of autonomous voluntary associations and socio-professional groups has raised the issue as to which groups are the most representative. The current deadlock between the communes and the governor may soon be broken because an ordonnance has been recently drafted naming the members representing socio-professional groups to the district council. One possible future solution to this problem is to have all the district councilors chosen by the communes.

Communal officials seek to exercise direct control over the district council budget and make changes in the distribution of budgetary resources between the district and the communes once the District Council meets. This desire is likely to remain unfulfilled because of the legal constraints imposed by current rules. On the other hand, there seems to be no fundamental conflict between the government and Bamako's communes since the government intends to transfer more budgetary resources and powers to the communes and to have the

elected head of the district council assume responsibility for implementing the district budget. However, this will not take place until the proposed reforms become law. Part of the present conflict pitting the governor against the communes may be due to ignorance of the law by some municipal officials. Political factors may also explain part of the tension as some communal officials see the ADEMA-controlled government as seeking to block an anti-ADEMA coalition from exercising power.

The patente is the main source of District revenues. In 1991, it constituted 93 percent of the projected receipts to be derived from District taxes. In practice, the District has not been able to collect sufficient projected taxes as to balance its budget. As a result, the central government has had to provide subsidies to balance the budget. However, with state finances in such poor shape, the provision of basic urban services for Bamako has suffered. In the future, the patente will be collected by the communes and used for the communal budget.

Proposed rule changes will greatly diminish the powers of the governor and give the president of the District Council control over the district budget; this budget will shrink considerably in size as a result of the transfer of the patente to the communes. The main role of the district council will be to coordinate development activities within the communes and to oversee intercommunal infrastructure and development programs.

(f) Crucial Problems Facing Municipal Governments

Some of the major problems cited by political leaders, municipal officials, and the local community confronting municipal government include the following:

- * insufficient budgetary resources to meet enormous needs.
- * low tax recovery rate
- * poor understanding by local government officials of basic regulations governing the operation of municipal government.
- * lack of experience of urban officials in managing urban affairs.
- * an unhealthy physical environment caused by inadequate garbage collection and removal services, poor public hygiene habits by urban dwellers, inadequate drainage facilities, etc.
- * insufficient urban planning and organization of space.
- * lack of clarity of current texts in describing attributes, functions, and powers of District and Communal government.

* the need to provide better security at night by providing more street lighting and police patrols.

* high unemployment rates.

* need for improved communications between urban officials and their constituents to identify community needs and mobilize popular support for urban government activities and services.

* high transaction costs involved in acquiring land rights, building permits, and licenses.

* need to better coordinate the activities of ONG and other non-governmental public service providers within municipalities with national, municipal, and district services.

2. Rural Local Government Institutions

To date, Mali has no true deliberative rural local government bodies. The various regional, "cercle", and "arrondissement" councils created by the Traore regime during the 1980s were consultative bodies largely under the tutelle of the territorial administration (Gellar et al, 1990). They were designed to give representatives of local communities and socio-economic organizations a greater voice in determining the allocation of development projects and priorities in their jurisdiction. In practice, these councils were dominated by the "commandant de cercle" and the regional governors who prepared and implemented council budgets. At the same time, UDPM party officials tended to overshadow other elected council members in council deliberations. In many areas of Mali, the councils met infrequently or not at all.

Political decentralization remained a topic of discussion rather than a reality in the last years of the Traoré regime. The state bureaucracy strongly opposed proposals to transform the "arrondissements" into rural communes on the grounds that most of the "arrondissements" were not ready for full self-government. UDPM officials were ready for this since they expected to keep their monopoly over elected office.

The overthrow of the regime and the establishment of the Third Republic was accompanied by a firm commitment to establish local rural government bodies with legal status, financial autonomy, and full executive powers. Although there is some debate within the current government concerning the extent of state tutelage over local government bodies, drafts of rural local government legislation indicate that the new councils, (unlike their predecessors), will have broad executive powers.

(a) Election Rules

The system of rural local government is based on direct suffrage. At the village level, adults

over 18 elect the members of the village council which in turn chooses a village chief. The village council then chooses one of their councilors to sit in the "arrondissement" council. Members of the "arrondissement" council then choose someone from their ranks to sit on the "cercle" council which in turn sends a representative to the regional council.

Each council level chooses a president from their ranks who presides over the meetings. Under the proposed legislation, the elected council president will have extensive powers, including the power to execute the budget.

The system of indirect suffrage gives great weight to traditional authorities at the grassroots level. Some fear that competitive party politics at the village level will lead to efforts by political parties to bribe village chiefs and notables to back their party and capture control of "arrondissement" councils which will be used to take control over "cercle" and regional councils. Others fear that the new system will exacerbate factionalism. While direct elections of rural council officials may raise the transaction costs of winning local support through unsavory means, direct elections might also undermine the support of traditional village authorities for the new regime.

At any rate, the enacting legislation formally creating the new rural government bodies must first be presented to and then approved by the National Assembly before elections can take place. Thus, elections are not likely to be held before the beginning of 1993.

(b) The Rural Communes

The major innovation proposed by the government in the realm of rural government is the creation of rural communes at the arrondissement level. The rural communes would be the rural counterparts of the urban commune with a similar electoral system. The rural commune council would then choose a mayor who would become the head of the executive council.

At the present time, there seems to be a general consensus within the government that rural communes will be established at the "arrondissement" level, the entities correspond with the existing administrative boundaries. However, there is considerable political support both within and outside the government for redrawing "arrondissement" boundaries in the future to more accurately reflect local historical and social solidarity patterns. Opponents of boundary changes argue that these may be risky because they might arouse old pre-colonial social conflicts. The proposed texts now under consideration do not permit the establishment of rural communes below the "arrondissement" level.

Another issue which has not been totally resolved is the speed at which the "arrondissements" should be transformed into rural communes. A more cautious approach argues that many "arrondissements" are not ready for communal status because they don't have the financial and economic resources to pay for their new responsibilities or lack the managerial competence to handle communal affairs. Proponents of this approach maintain that one should choose a few pilot "arrondissement"s which clearly meet minimal standards

of socio-political cohesion, financial viability, and managerial competence as experimental communes before generalizing the experience to the entire country. On the other hand, there is considerable political pressure in the country to establish rural communes everywhere as part of the democratization process.

In the event that the "arrondissement" is not transformed into a rural commune, the "arrondissement" council system will prevail.

As part of the long-range administrative reforms, the cercle may eventually be abolished as an intermediary administrative unit between the "arrondissement" and the region and the cercle level of the territorial administration eliminated. Another possible change for the future will be the creation of regional councils elected by direct universal suffrage.

(c) Powers and Functions of Rural Government Bodies

Political decentralization reforms in Mali are based on the following guidelines:

- * local government institutions will have legal status, financial autonomy, and the possibility to borrow money, benefit from subsidies from ONGs, and receive state funding.

- * the executive powers previously exercised by the "tutelle" authority over budgetary affairs will be transferred to the presidents of the rural communes and the presidents of the "arrondissement", "cercle", and regional councils.

- * budgets must be balanced in receipts and expenditures.

- * budgetary resources from the Fond de Developpement Regional et Local (FDRL) will be divided in the following way: 70 percent for the rural commune or "arrondissement" council; 20 percent for the cercle council; and 10 percent for the regional council.

- * the state will not guarantee loans undertaken by local rural government bodies.

- * new responsibilities should not be transferred from the state to the local government body unit unless the local government unit has the financial resources and powers to meet its new responsibilities.

- * local government is to be held fully responsible for meeting contractual obligations, maintaining public order, and preserving the rights of the individual.

The proposed rural local government legislation calls for a division of labor among the different levels of government. Thus, the Regional Council draws up the regional development plan and budget and is responsible for such activities as maintaining regional-level roads, the construction, equipping, and maintenance of secondary schools, the construction and maintenance of regional-level health facilities, organizing regional industrial

zones, and developing regional cultural, artistic, and sports facilities.

The "Cercle" Council deliberates on such matters as programs for constructing small-scale dams and water points; environmental protection programs, and the building and maintenance of water distribution facilities. It also is responsible for "cercle" level, school, health, and sports facilities.

The Rural Commune Council deliberates on such matters as the organization of agricultural, livestock, fishing, and hunting activities; land use, exploitation of village woodlots, construction and maintenance of primary schools, protection of wells and other water points, creation and maintenance of slaughterhouse areas, plus additional matters dealt with by the urban communal councils when relevant to the "arrondissement".

At first glance, there seems to be a gap between available financial resources from the FDRL and local taxes and the cost of meeting mandated obligations for local government. Thus, the region which receives only 10 percent of the FDRL resources has to bear the costs of maintaining regional level road, secondary schools, and relatively advanced health facilities. Without external funding or state transfers, it will be difficult for most rural local government bodies to meet their responsibilities without radically improving tax collection rates and mobilizing new local financial resources.

Tax collection in the rural areas may be further complicated by the recent abolition of the unpopular head tax. While the abolition of the head tax may enhance the government's popularity and legitimacy, some government officials are concerned that the rural populations may assume that the local and regional development tax has also been abolished. Given this situation, a civic education campaign may be needed to explain to the rural populations the utility of paying their other taxes.

(d) State Tutelage and Local Government Relations

The highly centralized Traore regime was very reluctant to lighten the state's tutelary authority over local institutions, a factor which explains why it did not actually implement its avowed commitment to decentralization.

While still committed to reducing MAT's tutelary authority over local government, the government has recently adopted a more conservative stance. For example, an earlier version of the proposed local government legislation gave the presidents of the councils the right to name the secretary-general who is responsible for helping the president in his/her administrative duties. A more recent version, however, gives the MAT minister the power to name the secretary-general. This makes it easier for the state to keep track of what is going on at the local government level. From a political perspective, it gives the party in power the right to carefully monitor the activities of local government bodies which may be controlled by the opposition. On the other hand, the secretary-general, though named by the MAT still formally remains under the authority of the elected president.

The role of the tutelary authority under the proposed decentralized local government reforms will be relatively light and limited to seeing that local government in its operations conforms with the law of the land. In fact, state officials and the MAT still continue to exert a dominant role in determining rural council budgetary allocations because the old institutions have not been functioning and the new ones not put in place. Thus, regional planning officials and local level technicians have been the ones to draw up the most recent development programs with little consultation with the local populations because of the non-functioning of the rural councils.

The MAT is clearly going through a major transformation. It has lost its mandate to oversee local development programs and seen its tutelary powers drastically reduced. With the advent of a free, competitive multiparty system, it has assumed the arduous task of organizing national and local elections in a country with poor communications networks. This task was much easier under a one-party state where the results were known well in advance. MAT is now headed by a philosophy professor committed to promoting democratic local government and reducing the state's tutelary powers.

This transformation will necessitate major changes in bureaucratic procedures and behavior, and MAT's relationships with local government officials and the public. The government is already working on a program to simplify bureaucratic rules and to streamline the bureaucracy.

The proposed local government legislation also retains a significant supervisory role for the Ministry of Finance which will continue to name the officials responsible for overseeing local finances.

(e) The National Pact

One of the major issues related to decentralization concerns the terms of the "Pacte National" concluded between the Malian Government and the diverse AZAWAD movements and fronts on April 11, 1992. The Pact spelled out the conditions for restoring peace and security in the northern regions and proposed a special status for the North which would recognize its political, cultural, and economic specificity. It also called for the integration of former rebel soldiers into the regular Malian army and the creation of mixed patrols as confidence-building measures.

The Pact has generated considerable controversy within Mali. Those opposing the Pact argue that the northern regions should not be given a special status and that the government has made too many concessions to the former rebel forces. Some say that the Pact is unconstitutional because it intends to allocate resources not designated by the annual Finance Law. Those supporting the Pact maintain that it will restore peace in the region, preserve Mali's territorial integrity, and reduce economic imbalances between the North and the South.

Earlier drafts of proposed decentralization legislation had a section devoted to the North's special status; more recent drafts have eliminated this section, thus suggesting that the North's special arrangements may be a pilot project which could eventually be applied throughout the country and not necessarily unique to the North.

The Pact has several peculiar features which make it different from other proposed local government and decentralization measures:

- * it involves three regions-- Gao, Tombouctou, and Kidal and proposes an interregional assembly in which each region will have five representatives on the interregional assembly. Thus, the numerically small region of Kidal will have the same number of representatives as its larger neighbors.

- * the interregional assembly will elaborate interregional development programs and work out redrawing of administrative boundaries in collaboration with the government.

- * members of the regional assemblies will be elected by universal direct suffrage in contrast to the indirect electoral system proposed for choosing regional council members elsewhere.

- * elected officials in the regional assembly will receive immunity and get indemnities while in office in contrast with regional councilors elsewhere who do not get paid and have no immunity.

- * priority in recruiting state officials will be given to those from the region.

- * the presidents of the regional assemblies will have considerable responsibility and control over police forces operating in the region.

- * the secretary-generals will be named by the presidents of the "arrondissement", "cercle", and communal councils in contrast to proposed general legislation to have the secretary-general named by the MAT minister.

- * local government units will have broad powers to promote and preserve local cultures and provide education in the local languages.

The Pact also calls for the creation of a Commissaire pour le Nord (Commissioner for the Nord) attached to the presidency who will be responsible for implementing the terms of the Pact in accordance with a specific timetable. Because security has not been fully restored, the implementation of the Pact is far behind schedule.

The Pact includes special financial and economic benefits for the north:

- * a development fund and a special ten year development program to reduce economic

inequalities between the North and South.

- * a preferential tax regime to encourage investments in the North.
- * a fund to compensate military and civilian victims of the rebellion.

None of these funds are yet operational. One of the main issues to be resolved is how the financially strapped GOM will find the means to meet its economic commitments to the North.

While retaining the central government's sovereignty over the regions of the North, the Pact also calls for the transfer of more powers and resources to local government than is the case for the rest of Mali. It remains to be seen whether this arrangement will be politically acceptable to the people in the south or to the non-Tuareg populations of the north. On the other hand, the implementation of the Pact could set a precedent for eventually transferring more state powers and resources to all the regions.

(f) Local Jurisdictions Outside Those Mandated in Proposed Decentralization Legislation

While the decentralization legislation currently under consideration goes well beyond that put forward by the Traore regime, it still does not leave much room for the establishment of local jurisdictions of local government below the "arrondissement" or commune level. Thus far, there are no provisions for a cluster of villages to establish themselves as a rural commune since rural communes will have to encompass all of the villages within a current administrative district.

Malian rural communities have preserved local governance institutions and self-governance skills (Thomson, 1992). Their ability to manage natural resources and to provide simple basic services has been well-documented (Thomson et al 1991, Hall et al, 1991).

Local community-based organizations, especially village associations, can make a significant contribution to the decentralization process in Mali by providing its members with experience in self-governance skills. In village-based organizations, the decisionmakers are accountable to the membership while the organization is itself relatively autonomous in determining its priorities and managing its resources. This experience in making and enforcing rules, setting priorities, and mobilizing and managing local financial resources can also be transferred to the management of local government units, once the new rural councils have been established. Officials within the government have recognized the value of such experiences and have recommended that the first rural communes be set up in "arrondissement"s where village associations, ONGs, women's groups, and other community groups have been most active.

The village or fraction still remains the basic building block for rural decentralization. The village/fraction elects its council which chooses a village chief and sends representatives to the "arrondissement" council. The village also constitutes a basic development unit. Various youth and women's groups are usually organized within the village. Village-based associations participate in various large-scale economic development projects --e.g. the various "Operations". Despite their limited resources, Malian villagers have also supported simple primary health services, rural schools, and functional literacy programs in the national languages. Several villages can also get together to form development sectors. Conceivably, these could eventually be transformed into local government jurisdictions.

The Malian government and donors could further advance the decentralization process by strengthening village associations and other local organizations. Consideration should also be given to creating an enabling legislation which would permit local collectivities to obtain formal status as an incorporated local government which would meet clearly defined needs.

F. Recommendations

1. Concerning National Decisionmaking Process

Several measures can be taken to strengthen national decentralization policy analysis and legislation:

- * Develop a documentation center with journals, legal codes, books, and studies materials related to decentralization issues.

- * Establish a working relationship with Professor Boubacar Kante's Decentralization and Land Tenure Research Unit at Saint Louis University in Senegal. This will give Malian officials easy access to decentralization experiences throughout Africa.

- * To strengthen the National Assembly's ability to analyze government initiated decentralization legislation and to initiate its own legislation, provide materials for National Assembly documentation center, support study trips for members of National Assembly decentralization and territorial administration committee, and provide funding to hire local experts to do studies on specific decentralization issues related to current legislative concerns.

- * Send government officials, deputies, political party leaders, and representatives from the national media to workshops on decentralization.

- * Organize seminars run by local experts and jurists on various topics related to decentralization.

2. Recommendations to Enhance Democratic Governance in Municipal Government

Some of the major problems cited above can be alleviated and democratic governance

strengthened by providing support in the following areas:

(a) Municipal government operations

- * provide each urban government office with basic texts related to urban government and other materials related to urban government management.

- * provide training sessions and workshops for mayors, municipal councilors, and communal employees explaining basic texts, municipal finances, and obligations of public officials to the community.

- * provide information which will help communal authorities to establish ties with other municipal governments and associations in Africa and other parts of the world.

(b) Municipal Government-Community Relations

- * provide funds and technical support to create a newsletter in French and appropriate national languages which will diffuse information concerning municipal government activities and solicit feedback from citizens.

- * support organization of workshops in police community-relations and strategies for improving neighborhood security.

- * provide legal advisor services for urban citizens seeking information on such matters as how to get title to land, building permits, and commercial licenses and how to appeal unfair tax assessments.

(c) Civic Education

- * Develop major civic education campaign on the relation between taxes and the provision of public services.

- * Develop radio programs and audio-visual materials which can be used to inform the general public about the organization of municipal government and services, etc.

- * Develop a media campaign on the need for better public hygiene practices.

- * Continue to support the organization of civic groups and town meetings to discuss community issues and to participate in community self-help projects.

3. Local Rural Government Recommendations

If local rural government is to function effectively, then much remains to be done to improve the competency level of elected rural officials and the rural

populations' understanding of their rights and obligations as citizens. The implementation of the Pact National will also require a massive information campaign. The following recommendations can contribute to strengthening democratic governance in Mali's new rural local government institutions.

- * Provide training programs for elected rural officials in local government procedures, drawing up budgets, and other matters related to their official duties.

- * Organize workshops bringing together state officials, elected officials, village chiefs, religious leaders, and notables to explain how local government works.

- * Translate the proceedings of rural councils, budgets, and development programs into national languages and diffuse this information through radio programs and newsletters in the local languages.

- * Translate basic texts relating to local government, land tenure laws, forestry codes, and other laws and regulations affecting the every day activities into the national languages and communicate this information through the media.

- * Develop a civic education campaign to explain the relationship between taxes and the provision of public services.

- * Provide training to local government officials and the leaders of local ONGs, village-based organizations, women's groups, etc. in how to apply for funding from donors and external ONGs.

- * Develop a special training and civic education program for the North which would include:

- the use of radio, audio-visual materials, and cassettes explaining the terms of the National Pact in the relevant national languages .

- translation of the constitution, electoral codes, local government legislation and other legislation affecting everyday life into the local languages.

- the expansion of radio services to the North in French and the national languages.

- training for local government officials.

- workshops for integrated Malian army units on rights and obligations of citizens and the role of the army in a democracy.

- workshops on conflict resolution mechanisms.

4. Strengthening Civil Society at the Grassroots Level

Effective democratic governance requires a strong civil society to articulate citizen needs and to serve as a check on abuse of power by the government and elected officials. Freedom of association, a free press, and a fair legal system are all important ingredients of democracy, hence the importance of reinforcing these elements of civil society at the local level as part of a decentralization program.

Several measures can be taken to strengthen civil society at the grassroots level:

- * Provide training for journalists to improve general skills and knowledge of local government and decentralization issues. Develop radio and TV programs on these themes.

- * Support the development of a national free press in the national languages and small-scale local newspapers and newsletters in the national languages. Small computers, printers, and desk top publishing programs could be distributed to qualified local journalists who would also receive training in desktop publishing skills.

- * Provide support to local socio-professional associations-- materials for small documentation centers which would include legal codes and regulations affecting their profession; subscriptions to relevant journals and reviews; equipment to start newsletters; and travel funds to attend national and regional conferences.

- * Support the strengthening of locally based legal institutions such as the Tribunaux de Première Instance and locally based lawyers associations. Provide them with basic legal codes and other materials needed to establish a local legal library and simple equipment to do their job better.

- * Provide training for local judges in citizen rights and obligation, local customary law, land tenure legislation, and the consequences of decentralization on the judicial process.

- * Support the establishment of legal advisory centers at the "arrondissement" level to provide legal advice to local citizenry.

- * Develop civic education campaigns to explain recourse mechanisms available to local citizens in the event of disputes with state officials and local government.

- * Provide literacy and numeracy training for leaders of peasant associations, women's groups, and other grassroots organizations which would use materials designed to enhance their understanding of the working of local government, the territorial administration, legal institutions, and their rights and obligations as Malian citizens.

5. Changing Administrative Behavior and Practices

Decentralization reforms within an open democratic society which promote a true devolution of authority from the central government to various sub-national local government units will require a major change in administrative behavior. From independence until the establishment of the Third Republic, Mali had been ruled by highly centralized governments. Malian state officials, particularly those in the MAT have been trained to command their administrative jurisdictions. With the transfer of financial powers and resources to local government, the Ministry of Finance will also have to change its approach as local government units will manage a growing share of Mali's public financial resources.

While retaining the state's presence at the local level, the new government seems clearly committed to lightening the state's tutelage over local government and to simplifying bureaucratic procedures as to make it easier for citizens to obtain needed government documents and services.

Support should be given to the Malian government's efforts to adopt the territorial administration to its new role. Such support could include the following measures:

- * Develop a curriculum module for ENA to provide future government officials with a better understanding of the workings of local government and their new role as public servants rather than "commandants" and "encadreurs". This module would also include materials on the strengths and weaknesses of traditional local governments. Support short reorientation programs and workshops for territorial administration field officials.

- * Provide workshops and training for MAT staff in developing strategies for assisting and collaborating with local government.

- * Set up workshops to develop conflict mechanism resolutions among territorial administrators, local elected officials, and political party leaders.

- * Provide MAT staff with better training in auditing skills to insure transparency and discourage corruption in local government finances.

- * Develop collaborative relationships between MF officials working in the field and local government officials through workshops explaining respective roles of local government presidents and mayors and those of MF treasury and tax agents in local government finances.

- * Provide MF officials with better understanding of local resource mobilization practices.

Persons Contacted: Democracy and Governance Mission

US Embassy

1. Ambassador Donald Gelber
2. Mary Curtin- Political Officer
3. Mathew Findley- intern

USAID/MALI

1. George Thompson-GDO
2. Boubacar Daou, facilitator
3. Robin Poulton- coordinator of ONG projects.
4. Dennis Brennan Director
5. Alan Getson Deputy Director
6. Jon Breslar, Economic Officer

Peace Corps

1. Howard Anderson, Director

Political Parties

1. Mountaga Tall-- leader of CNID
2. Mohamadou Dicko- ADEMA-
3. Hamaciré N'Douré- US-RDA- tendance Konaté
4. Sekene Mody Sissoko- PSP
5. Amadou Seydou Traoré, sec. à la communication, US-RDA-

National Assembly

1. Mamadou Santara- Secretary -General
2. Bocoum, chef de Protocole, National Assembly
3. Aly Diallo- President of National Assembly
4. Mamadou Lamine Traoré- President of law, justice, territorial administration and decentralization committee
5. Ibrahim Ag Dagarol - deputy Abeibara, Kidal Region
6. Hamzatta Ag Oudada- deputy Tessalit, Kidal region
7. Bocar Sall, deputy

C. Mayors and Municipal Government Officials

1. El Hadj Mamadou Bocoum- Mayor Commune IV, Bamako, ADEMA
2. Seydou Traore, Mayor Commune II, Bamako- CNID
3. Salim Camara- Mayor, Commune I- CNID
4. Yaya Coulibaly, deputy mayor, UFD/ Commune I
5. First adjoint to , Ibrahima Traore- RDP, Commune I
6. Yaya Niare- rep. of chef de quartier of Niarela quartier, Commune II-
7. Diallo, conseiller municipal, ADEMA, Commune II

D. Ministère de l'Administration Territoriale

1. Mamadou Lamine Traore- Minister
2. Jossely Kone- conseiller technique
3. Mohamed Sohkona- directeur du cabinet/minister
4. Moussa Guindo- chef, Direction Nationale des Collectivités Territoriales-
5. Noel Diarra- former adjoint to Governor of District of Bamako
6. Mme. Sy Kadiatou Sow, Governor, District of Bamako
7. Bouran Diallo- Governor of Segou
8. Sigui Kante, Conseiller administratif et judiciaire to Governor of Segou.
9. Egleze Ag Foni, Governor of Kidal

Commissariat du Nord

1. Colonel Birama Sire Traore- Commissaire au Nord

Regional and Local Officials

1. Madi Fofana- Regional Planning Director, Segou
2. Inhaye Ag Mohamed- Deputy Regional Planning Director, Segou

E. Prime Minister's Office (Primature)

1. Abou Sow- Conseiller Technique à la décentralisation et l'Administration Territoriale
2. Bakary Traore- Directeur de Cabinet

Commissariat à la Reforme Administrative (CRA)

1. Sidi Mohammed Coulibaly

Ministère des Finances

1. Youssouf Keita, Chef de la législation fiscale et du Contentieux,
Direction Nationale des Impôts.

Ministère des Affaires Etrangères

1. Abdoulaye Diarra, conseiller politique et judiciaire
(one of authors of Malian Constitution)

Consultants

1. Livio Granzotto- consultant, ONG specialist on North

G. ONGSH

1. Yacouba Deme-Representative Near East Foundation
2. Dan Devine- World Education Urban Revutalization Project
3. Nancy Devine, World Education
4. Macky Doucoure, World Education
5. Abdoulkadri Zeinou- coordinator, CRADE- Cabinet de Recherche Actions
pour le Developpement Indigène.
6. Mme. Marieme Thiam, head of Association d'Entre-aide et de Developpement
(AED)- Segou

H. Local Associations

1. Cheikh Dicko- President, APE of Niarela quartier
2. Members, Comité civique, Commune I, quartier Niarela
3. Sekou Oumar Tall, President de la Chambre d'Agriculture du Mali

IV. Mali's Judicial System

A. The Constitution of the Third Republic

The Constitution of the Malian Third Republic is notable for its unwavering determination to root the new institutions within the traditions of the struggle for democracy. Thus, its preamble refers back to the heroic actions of both the victims of repression and those honored "martyrs" who died in the fight for the development of a law-based state and a pluralistic democracy. The preamble emphasizes the defense of women's and children's rights and indicates that Mali adheres to the Universal Declaration of Human Rights and to the African Charter of Human and People's Rights.

The Malian Constitution, like those of most Francophone countries, is based on the 1958 French constitution. Within the judicial area, for an example, one can cite the distinction between the domains of legislation and of regulation, and the existence of a constitutional court. However, the most striking resemblance is in their parliamentary regimes which has a President who nominates a Prime Minister who is accountable to the National Assembly. The National Assembly can be dissolved by the President of the Republic (article 42).

However, the Malian Constitution has some particularly interesting innovations which distinguish it from other Francophone constitutions. Without constitutional restrictions, the Government, as well as the members of the National Assembly, can both propose and amend laws provided that those laws were previously submitted by the deputies to the Government. In most Francophone constitutions, by contrast, the proposal and amendment of laws which entail new expenditures are acceptable only if the Members of Parliament (députés) can simultaneously identify the corresponding sources of revenue. That means that the National Assembly is often unable to take legislative initiatives. The Malian Constituent Assembly¹ certainly recognized that fact and preferred to trust in the M.P.'s and their future actions, eliminating any constitutional limitation that would hinder parliamentary initiative in lawmaking.

In this regard one paradox is noteworthy: The députés themselves are, through the adoption of the National Assembly's, operating procedures, going to reintroduce restrictions on their right to initiate legislative amendments. As a matter of fact, the procedural rules of the National Assembly, as defined by the article 52 of the law which is based on the article 56 of the former constitution, rules out proposed laws which lead to an increase in public expenditures unless such proposals are accompanied by a financial measure for either an increase of revenues or an equivalent level of spending reductions.

However, the Assembly's preference for legislative self-regulation rather than a constitutional

¹ Note: In Mali the National Conference functioned as a Constituent Assembly to redraft the Constitution.

limitation does not guarantee that the restriction will be honored. In fact, a majority of the députés can change the procedural rules more easily than they can change the constitution. Nonetheless, it is important to point out that the law which defines the procedures of the National Assembly is not constitutional. However, under present Malian law, it is not possible to control the constitutionality of a law which has been already promulgated. Therefore, it is up to the députés to change the law in accordance with the constitution. Nonetheless, it is important to protect against the demagoguery and the populism of some députés who may propose laws or amendments with disregard to the financial resources of the state.

The Malian legislature has tried to innovate by creating the "Haut Conseil des Collectivités" (High Council for Communities). The task assigned to this institution is to scrutinize and to give its point of view on any policy affecting local development or laws (Article 99). Like the députés, the members of the High Council can neither be sued, nor be subject to search-warrant, nor be tried because of the opinions they express in the sessions of the High Council.

The term of a High Councillor is five years. Among other prerogatives, he can make proposals on any question related to the protection of the environment and to the improvement of the quality of life of members of local communities. In this case, the Government must submit a bill to the National Assembly within fifteen days. In addition, the Government must inform the High Council of any bill related to the environment and to the improvement of the quality of life in the communities.

However, the creation of the High Council is a very interesting reform, it has yet to be completed. In fact, such an institution should have been a second chamber of the legislature, representative of the opinions of the grassroots and of traditions. Instead, an institution has been created that has the appearance of a legislative chamber but which lacks its prerogatives. In fact, the responsibilities it has been assigned could have well been handled by local assemblies.

The existence of the High Council of Communities will increase the financial burden on the state and may give rise to political misunderstandings in the middle term. For example, how will the High Counselors react when some knowledgeable députés introduce bills which deal with their area of expertise? Indeed, the rights of the Government and the National Assembly to introduce bills should not be restricted by the rights accorded by Article 99 of the constitution to the members of the High Council.

Another innovation that is worth pointing out is article 9 of the constitution which gives Malian citizens rights similar to those of citizens of Anglo-Saxon countries like the United States of America and Great Britain. Under the new Malian constitution, the right of the accused to a legal defense starts with the preliminary inquiry, that is to say at the police station. The presumption of innocence goes from being theoretical to becoming a solid protection against attacks on basic liberties.

In order to improve the system of protection of individual rights, the Constituent Assembly added to the aforementioned dispositions the constitutional prohibition on "administrative detention". Thus, article 10 makes clear that "no one shall be detained without a warrant issued by a magistrate of the judiciary." In the past in Mali, as well as in many African countries under authoritarian dictatorships, citizens were arrested and detained without any legal justification. Quite often people could be detained for years without knowing why, and without being entitled to legal assistance since they had never been formally charged. Those prisoners were considered missing people and even their deaths could not lead to legal actions. In many African countries maimed prisoners, after being freed could not receive compensation because it was impossible to trace the legal basis for their detention since it conformed to no judicial procedures.

At this stage, "human rights" must come to the rescue when "enacted" laws might otherwise be indifferent toward the fate of the weak: "dura lex sed lex". The Malian legislature has been willing to moderate the rigors of certain laws by allowing humanitarian action to bridge, if need be, the gaps left by "enacted" law. In this respect, one of the greatest innovations of the constitution of the Malian Third Republic is the creation of the Ministry of Justice and Human Rights. Under the former regime, the Ministry of Justice was seen as a repressive apparatus by the average citizen. Indeed, its strictly normative role could explain such a view.

In August 1992, the Minister of Justice made a tour of the interior of the country, followed by a tour of Bamako. The tour presented an opportunity for the Minister to visit prisons, to meet with prisoners, and to talk with prisons' administrative staff. According to the Minister, such a visit was very informative to him and his department.

Concern by the Malian authorities with prison conditions, and recognition that prisoners have rights which must be safeguarded if they are to be reintegrated in society, is a good sign.

In this connection, this "human rights" dimension, we believe, will help sensitize the population and promote a reconciliation between the citizens and the legal system.

B. The Judicial System Overall

The Malian judicial system has been set-up with regard to a recent political experience marked by a justice system subordinated to political power and discredited in the eyes of the people. With regard to that fact, the Malian Constituent Assembly decided to protect the legal system from the control of political authorities. Thus a separation of power has been worked out. Henceforth, the judiciary is considered an autonomous power and not as a subordinate authority.

Indeed, the judicial power is separated from the executive. But in light of recent experience, the legislature's aim was to avoid the possibility that the entire judicial power would be under the control of a single institution presided over by a single individual. Thus it created

a Constitutional Court in addition to the Supreme Court. Previously, drawing upon the Moroccan and Senegalese experiences, Mali had a supreme court with several sections including a constitutional court.

The advantage of such this earlier organization was to take care of different types of legal affairs in one single court. From the material and administrative perspective the rationale for that option rested on procedural simplicity but especially on the considerable reduction in management costs. The latter aspect is very important in the context of poor countries. A single jurisdiction could also facilitate the harmonization of the jurisprudence especially between the judicial chamber and the constitutional chamber.

As a matter of fact, the harmonization of the constitutional and judicial jurisprudence is all the more important, for it allows the Supreme Court to better protect the citizens' rights and liberties. On the other hand, the Supreme Court becomes an easy target for its opponents when it has to find solutions to many different legal disputes.

In fact, in the case of the concentration of jurisdictions, the Supreme Court, through the constitutional chamber, made decisions on the constitutionality of the laws and dealt with electoral conflicts.

These two prerogatives had political consequences which could well have resulted in a clash between the Supreme Court and the political powers who oppose both the "power" of the judges and the citizens who are disappointed by its decisions.

In the context of pluralistic regimes, the Supreme Court may be discredited if its decisions regarding the outcome of the elections were disputed by political parties. That could also dangerously weaken the judicial system as a whole.

On the contrary, the splitting of jurisdictions, especially the formal separation of the Supreme Court from the Constitutional Court can prevent the politicians from controlling the institution (whose mission is to protect individual liberties) by subordinating its President. This consideration, it seems, could explain the fact that the President of the Supreme Court can submit a case to the constitutional court as well (article 88).

In this respect, the Constituent Assembly was consistent since it assigned to the two institutions the role of protecting the rights and freedom of the citizens. In this regard, the constitution reads: "the judiciary power is independent from the executive and the legislative powers- it is exerted through the supreme court and the other courts and tribunals- the judiciary power safeguards the freedoms defined by the constitution" (article 81). The Constitution further states: "the Constitutional Court judges the constitutionality of the laws and guarantees the fundamental human rights and public freedoms." article 85.

That is why, we believe, the separation of the two judiciary institutions should be considered as a way of safeguarding the democratic principles and human rights.

However, the existence of these two systems of jurisdiction results in additional costs in the administration of justice. For the Supreme Court and the Constitutional Court to function the government must increase the number of the experienced magistrates. Today, however, many magistrates have already left the bench to return to law practice.

The description of the Malian judiciary system would be incomplete without mentioning the High Court of Justice.

This institution has the authority to try the President of the Republic and the Ministers who, while in office, are accused of high treason or of other criminal offenses committed in the conduct of their official duties. It also tries their accomplices in the case of plots against national security.

"To be effective to the so charged accusation, two-third of the deputies in the National Assembly must support the indictment in an open ballot. In this regard, it is worth mentioning that the members of the High Court are appointed by the National Assembly. However, that institution works within the limits set by the definition of the crimes and the determination of the penalties in the penal law which was in force when the crimes were committed.

Thus one can ask whether it was necessary to create a special jurisdiction to punish crimes committed by the President and his Ministers while they were in office. Indeed, should not the National Assembly content itself with charges against the political leaders, dismissing them from office, and asking the regular courts to determine the penalties? In fact a political leader who has been dismissed loses his immunity and becomes a simple citizen who can be tried by the regular courts.

The National Assembly should not have the power to charge the President of the Republic and the Ministers and send them for trial in a court composed of its members. From our perspective, this form of mixing of powers in favor of the National Assembly is detrimental to the executive branch and makes the High Court of Justice a court with special powers. This seems not to be consistent with the spirit of the constitution of the Third Republic which is essentially marked by the desire to avoid an overlap of powers which could favor any one sector of the state over another.

C. Judicial Power

The Constitution of the Third Republic guarantees the independence of the judicial power vis-à-vis the Executive branch. The judicial power is exerted by the Supreme Court and the other courts and tribunals.

The Malian Constituent Assembly expressed its determination to protect the rights and the freedoms of citizens. Thus, article 9 of the Constitution reads "anybody facing criminal charges is presumed innocent until he/she is found guilty by a competent court of law. The

right to be defended, including the right to seek assistance from a lawyer of his/her own choice, is guaranteed from the preliminary inquiry".

With this measure, Mali departs from the tradition of most Francophone countries where the lawyer is not allowed to intervene during the detention of the accused at the police station, where unfortunately serious violations of human rights can be committed. This very important change has been achieved thanks to the mobilization of Malian lawyers during the National Conference.

The protection of the rights and freedoms of individual citizens is taken care of by the Supreme Court and the Constitutional Court.

1. The Supreme Court

The Supreme Court is comprised of three sections: the judicial, the administrative, and the audit. Through its administrative section, the Supreme court sees to it that public authorities do not infringe on individual freedoms. In fact, any citizen has the right to sue the administration over a decision that harms him/her. He/she can file a complaint of misuse of power before the administrative judge. To be accepted, such a complaint should respect the strict deadlines regarding appeal procedures.

However, the procedure is meant as a means to test and limit the powers of the administration in the francophone judicial system. But, in order to be effective in protecting civil rights and liberties the Supreme Court must rely, in the first instance, on local administrative courts whose location allows plaintiffs to meet the required deadline.

Despite the existence of the possibility of appeal against misuse of power, in some African countries, complaints are not often filed because of cultural pressures not to do so. In fact, filing a complaint against the administration has often been interpreted as an act of defiance against the Government. Besides, many appeals fail because the citizens or their lawyers are unaware of the required deadline for an appeal to be effective and considered.

With its Judicial section, the Supreme Court can be compared to the American Supreme Court or the French "Cour de Cassation". In this regard, the Supreme Court is the highest court in the Malian Judicial System. It is up to the Supreme Court to harmonize the legal decisions reached by the courts of appeal, by establishing a coherent jurisprudence. At present courts of appeal exist in Bamako, Kayes, Mopti.

In terms of procedure, a citizen who is dissatisfied with a court of appeal's decision can file a second appeal. In such a case, the Supreme Court does not concern itself with the arguments put forward by the courts operating at a lower level. Instead, its concerns are to verify whether the judge's decision has a solid legal base. In cases where the judge's decision conforms with the law, the court must reject the appeal. Otherwise the court reverses the judgment and sends the matter to another court of appeal. If that court's decision is not

consistent with that of the first Court of Appeals, the Supreme Court makes a final decision.

Thus, the Supreme Court can be the last defense against the violation of the rights and freedoms of citizens. In that respect, the Supreme Court is armed to oppose the application of inhumane and degrading penalties like capital punishment. In fact, experienced judges can always detect breaches in procedures which nullify the decisions at a lower level, especially in penal matters.

The Role of the Audit Office

According to the President of the Supreme Court, the role of the Audit Section has been nullified because of a lack of cases to deal with. Thus, for 25 years this section exercised no financial control because the financial sectors of different administrations were reluctant to let the magistrates of the Supreme Court scrutinize their accounts.

The Role of the Constitutional Section

Prior to the Third Republic the role of the constitutional section was almost nonexistent. The court had little chance to play its role in the elections because of the lack of electoral disputes. However, until the creation of the Constitutional Court, the disputed last elections had to be dealt with by the Supreme Court which had to consider a hundred appeals to cancel the last legislative elections. In this respect let us recall that the judge in an electoral dispute can either validate or invalidate the elections by organizing new elections or by reversing the outcome of the first election with a designation of another winner.

2. The Constitutional Court

The Constitutional Court, like the Supreme Court is governed by the Constitution. The Constitutional Court is one of the principal innovations in the Constitution of the Third Republic. This high appeal jurisdiction judges the constitutionality of the laws and safeguards the fundamental human rights and public freedoms. The Constitutional Court also deals with electoral disputes, since any candidate, any political party, or any government delegate can bring a dispute to the court. Electoral litigation submitted to the court must concern the election of the Deputies to the National Assembly and of the President of the Republic². In addition, the Constitutional Court controls the validity of referendum procedures and announces the results. In this regard the court must be consulted by the Government before the organization of the referendum.

² The arbitration of the electoral disputes that came out of the presidential and legislative elections of February-March 1992 was dealt with through the Supreme Court. From a decision made by this High Jurisdiction, the majority party-ADEMA- lost two seats in Bafoulabé to the PSP. The decision was abided by both parties.

In general, the court's action is geared to the protection of citizens' freedoms mainly through the control of the constitutionality of the laws. In this respect, the appeal to the high court is essentially institutional. The only way a case can be brought to this court is by the President of the Republic, the Prime Minister, the President of the National Assembly, ten percent of the députés, the President of the High Council des Communities or ten percent of its national counselors or by the President of the Supreme Court. It is, however, noteworthy that the system of control of the constitutionality of the laws adopted by the Malian Constituent Assembly does not allow an appeal before the court by a citizen or a group of citizens who want to question the constitutionality of a law. In any case, to appeal to the court, very strict deadlines must be met. Clearly, it is not possible to contest the constitutionality of laws that are already in effect.

At this stage, let us recall that there are two methods of controlling the constitutionality of the laws: either by exclusion or by action. For example, the exclusionary method is used in the USA. Any U.S. citizen can, in the presence of any judge during a trial, ask that exclusion of a law or a regulation seemed to be unconstitutional, be excluded from consideration. If the judge agrees, that unconstitutional law will not be applicable. However, the judge's decision only holds for the case which is under consideration.

In the French system which inspired the Malian Constituent Assembly, the action method was used for control of constitutionality, which means that only one agency is entitled to control the constitutionality of laws. In this case, the judge considers the validity of a law which, if declared unconstitutional, is not applicable, and must be withdrawn.

This latter system is fraught with political danger since it can place the High Constitutional Court in opposition to the state apparatus which initiated the law declared unconstitutional. In fact, a court which declares that a law presented by the Government is unconstitutional may be accused of attempting to substitute the judge's power for the will of the elected political majority. It is worth pointing out that the regulation of the Court itself is based on law, initiated and passed by the majority in the Assembly. However, it should be noted that even though the citizen cannot directly appeal to the court, the Constitution has worked out possibilities for appeal for several organizations whose diversity can constitute a guarantee for the citizen.

D. The Actors of the Judiciary System

1. The Lawyers

At present Mali has 155 lawyers including trainees. Lawyers are still appointed by decree. Most of them were former magistrates. As a matter of fact, in the past, many judges who reached the retirement age returned to practice law. Under the Second Republic, several judges became lawyers.

The creation of the Malian bar was a long and slow process. Thus from independence to the

early 1970s, the country had only five lawyers and less than ten as of 1980. Three lawyers out of the first ten were former judges. Until the appointment of Idrissa Traoré, the present Minister of Justice who was trained in Dakar, there were no young barristers. In order to encourage young civil servants who graduated from ENA to become barristers, and to restrict control over the bar by the former judges, a law was passed in 1988. Since then, to become a lawyer a magistrate must have had a 10 to 15-year career in law practice.

The lawyers have pursued their struggle for more independence from the political authorities. It is for this reason that a meeting of lawyers, held in August 1992, adopted a bill on the fusion of the professions of lawyer and legal counselor. This new regulation will better organize the legal profession in terms of defense and counseling. In other words, the Malian bar will be better qualified to face the requirements of the new democracy. Most lawyers still live in relative poverty. Many among them do not have an office and are so poor that they cannot pay the bar the annual required fee of 100,000 FCFA. Some even contend that they cannot afford the reduced fee of \$25,000 FCFA. The regulation governing the new profession of lawyer might have positive financial impact for the whole profession. The relative poverty of the lawyers could be alleviated if they accepted to form associations with each other. At the present moment the largest association does not have more than three lawyers.

2. The Magistrates

There are approximately 200 judges in Mali. On paper it would seem that they are privileged. Their salary index is 750 while the highest index in the civil service is 650. Their status also entitles them to free housing or to a housing indemnity. In fact, it should be noted that the living conditions of magistrates are very different from what one expects. For decades the magistrates have lived in poverty. The multitude of reports from generations of justice ministers have not changed these difficult living conditions. Today the salary of a newly appointed judge, including his indemnities, is 60,000 FCFA. Moreover, the newly appointed judge receives neither free housing nor an official vehicle.

In reality, the statutes for the magistracy were only adopted in 1979. After that, owing to political calculations, the administration appointed civil administrators to the top judicial posts. Such decisions could not but further decrease the status of judges who had to go on strike in order to be heard. The new Constitution, however, makes a genuine contribution to the improvement of the situation of the judges and to the promotion of justice.

E. Administration of Justice

Malian justice has gone adrift. Imagination and perseverance are needed to get it back to port. An illustration of the decrepit state of the justice system, abandoned for decades, is the state of disrepair of the main court house in Bamako. It was built in 1913 by the Governor of French Sudan, Glozel. Today, Judges living in a state of total disgrace, have to administer justice in courtrooms unsuitable for use. In most of the tribunals, the Judges do not even

have decent offices in which to work. Judges lack even the basic tools to render justice, such as the legal codes. In Mali, the only existing codes are:

1. *"Recueil des codes et textes usuels de la République du Mali 1959-82"*. This document, which was updated with French technical assistance, is no longer available.
2. *"Procédure civile et voies d'exécution en droit positif malien"*. This document which was last edited in 1979 is no longer available in all tribunals.

For all these reasons the judges are not up to date on how the laws have evolved. Thus, a lawyer who wants to plead his case has to carry his own bibliographical references with him. In one example, a judge had to confiscate the civil code of a lawyer in a case in order to be in a position to follow the lawyer's legal arguments. In another trial, involving a commercial issue the judge had to send an express order to France to get the book dealing with the matter under consideration in order to make his decision. Without legal documents to consult, justice is rendered at random and sometimes on illegal grounds, in spite of the good intentions on the part of the judge. In addition such justice is necessarily slow. For example, a call for immediate ruling that would normally relief, can take up to a year to be handed down.

To have an idea of the state of poverty of the Malian judicial system, one should draw comparisons with the colonial period. A distinguished judge told us that in the colonial days judges were occasionally able to return excess funds to the administration after fulfilling their function. In those days, there was a circuit rider system of justice. Such a system allowed judges, who had an official vehicle at their disposal, administer justice in even the remotest villages. Today many judges do not even have motorcycles. The three-month budget for a Justice of the Peace is 35,000 to 40,000 FCFA. Thus even in Bamako, the justices of peace have faced eviction from the buildings they have rented.

Things are worse in the rest of the country. A National Assembly deputy said that in the region of Kidal the headquarters of the magistracy is called the "Office of Birth and Death Certificates". The present Minister of Justice acknowledged that the budget for his ministry was equivalent to the budget of the *Ecole Normale Supérieure*. In fact, the share of the Justice Ministry in the state budget is less than 1%. That situation may get worse since the state is under a "structural adjustment program" and will not be able to increase the budget. There is at least an urgent need to repair of the court which currently is used by everyone from peddlers to fish merchants.

But, all hope is not lost. Besides the expected foreign aid from countries interested in supporting the democratic processes in Mali, the people are also conscious of the need to do something for the justice system.

Thus during his tour, the Minister of Justice and Human Rights of Mali learned that thanks

to the effective use of the rural tax in Koro and in Bankas, workable courthouses were able to be built. At this stage of the description it would be true to say that the Malian justice system has lost its credibility. We will conclude this chapter with a remark from the Association of Young Malian Lawyers (AYWL). "The Malian does not seem to care about the justice handed out in his country, for, not only is it complicated, but it is also too expensive. For example, the citizens do not understand that they have to pay 7% of the cost of the proposed damages requested in the case before the judge will consider their case. They also do not understand why a bailiff can walk in and seize their furniture before the owners have an opportunity to be heard by the judge who ordered the garnishment.

Last, businessmen are reluctant to use the court. They consider it as a waste of time and money; for, they argue, only the rich who can afford paying "a good lawyer and... the judge" can win a legal battle. This view is shared by many foreign investors who are more and more hesitant to set up business in Mali.

F. Recommendations Concerning Judicial Power

The Malian justice system must be supported so that it can play its role as a guarantor of public rights and freedoms, also serve as an arbitrator for pluralistic democracy during this difficult phase which could be considered unquestionably as a transition towards the consolidation of democracy.

The most pressing measures must concern the administration of the justice and the other actors in the legal and judiciary life of Mali.

In this regard, the means of the justice must be reinforced. Thus, we suggest:

1. Repair, re-equipment and furnishing of the courts in Bamako and some other larger cities.
2. It is important and urgent that the tribunals have libraries with not only the most recent Malian legal codes but also reference books on foreign law, especially French.
3. Seminars on the codification of Malian law will be of great importance. Such seminars would help complete certain existing codes and codify the legislation concerning other matters.
4. Vehicles are required for certain tribunals in order for that judges may be accessible to citizens in the rural areas.
5. The Malian judges need training. This could be supporting overseas training or by securing experienced personnel for training programs in Mali.
6. The Supreme Court and the Constitutional Court will play a key role in the

consolidation of the pluralistic democracy in Mali. Thus, these two institutions must have updated referenced books and documents as well as the equipment and skills to maintain accurate records. Overseas training opportunities should be provided for judges of these two institutions.

7. Lawyers must be supported in order to have a functional, organized, and powerful bar. Without independent and strong barristers, individual rights and freedoms will always be threatened by the executive power. For the action of the lawyers to be effective the bar needs to be helped to have:

7.a). A training institute for lawyers which is urgent and of great need.

7.b). Decent offices, a library, and a newsletter.

8. Immediate aid is needed for the Ministry of Justice and Human Rights whose important sphere of action qualifies it as the principal coordinator of the initiatives regarding the promotion and defense of human rights and the consolidation of the primacy of the law.

9. A Journal of Malian Law is needed. Such a journal would record the doctrine and jurisprudence of Malian courts and tribunals.

10. Support should be provided to nongovernmental organizations dedicated to human rights, and the primary of law and principles of justice. Illustrative organizations are described in Annex.

ANNEX

The Organizations for the Primacy of Law

The primacy of law is inconceivable without an effective participation of the associations for the defense and the promotion of human rights and the basic principles of democracy.

In this domain, Mali has benefited from the action of organizations of which certain ones have played a key role in the fall of the former regime. We focus our attention on several of these organizations which have a potential to contribute substantially to the emergence and the consolidation of the primacy of the law in Mali.

1. The Association of Young Malian Lawyers (AYML):

The headquarters of the AYML is in Bamako. Membership is on individual basis.

The AYML's resources are very limited. This does not allow the sponsoring of far reaching actions. But despite of that, thanks to the availability of its members, the AYML has a record of very encouraging achievements.

In fact, the AYML has organized missions of information and education known as "juridical tour" of Mali in the Malian rural areas.

The AYML is striving to translate into reality the dictum "ignorance of the law is no excuse", and that, in the countryside where remoteness and illiteracy leave the rural areas in the state of judicial ignorance.

Alongside that undertaking, the AYML offers to plead free of charge for citizens who cannot afford a lawyer. The AYML organizes visits to prisons and talks with certain administrative authorities in order to get them acquainted with the role of the lawyers.

The AYML can bring an invaluable contribution to informing citizens of their rights under the law. That is why we recommend that the AYML be supported in the implementation of its information program. At present, it is only funded by the voluntary contributions of those young lawyers. Given the size of the country, they need material and logistical support in order to inform and educate people in the countryside. Besides, the AYML can help improve the image of lawyers in the country.

2. The Association of Malian Women Jurists (AMWJ)

The AMWJ's headquarters are Bamako. The membership is on individual basis. The AMWJ's members are judges, lawyers, and other law-practitioners. The AMWJ is the Malian section of the federation of the African Women Jurists. In the present phase of transition towards a consolidated democracy, the AMWJ has an irreplaceable role to play.

The specificity of the problems of the Malian family, and the place of the woman and the child amply justify the existence of the AMWJ. In countries that have experienced political obscurantism, the fate of women and children is often a more than secondary preoccupation.

Thus today in Mali, in the prison of Bamako, women and children share the same yard with men which has negative consequences. Such a situation entails for example rapes.

The AMWJ which already existed under the former regime has tried hard, but in vain, to end that anomaly.

The AMWJ must be supported in order to assure the success of its role in the defense and the promotion of the rights of women and children.

This very useful organization has little resources. There are not many women jurists and perhaps the ones that do exist are often not very rich.

Thus, the organization could be helped:

(1) to get functional buildings where women could meet and discuss their rights and talks could be organized on that same topic;

(2) to organize seminars on the codification of the law on inheritance, on marriage and guardianship; and

(3) to have a journal to inform and educate.

3. Association for the Progress and the Defense of the Rights of Malian Women (APDW)

The Association for the Progress and the Defense of the Rights of Malian Women (APDW) is a national association that brings together women from all socio-professional and economic strata in Mali. It was created in the aftermath of the March 1991 events in Mali. It is democratic, independent and apolitical. Thus, the APDW distinguish itself from all political parties in order to be the expression of the aspirations of all its members who are from both rural and urban areas. As workers or independent, they are from all economic sectors of the country: agriculture, cattle breeding, fishing, trades, domestic tasks.

Regarding this very varied composition the (APDW) has set itself goals and objectives in relation to the social, economic, political, and cultural conditions of women in the new era of democracy in Mali.

APDW's goal is to bring women together and to build their confidence for the defense of their rights and the socio-economic and juridical improvement of their conditions of living.

Its Objectives are :

-To fight backward and sexist actions, practices, and texts which discriminate women and confine them a position of inferiority and exploitation.

-To get Malian women involved in decision-making related to women issues in particular and to the development of the country in general.

-To promote through education and information an effective and efficient participation of women in decision-making.

-To inform and educate women about their rights as active agents of the development process and about the questions related to the physical, psychological, and economic development of women (demography, environment, introduction to technologies adaptable to the economic, social and cultural resources of women, health, nutrition, literacy, etc.).

-To initiate training and information activities in order to enhance the social role of women and to enhance their consciousness of their economic contribution regardless of their occupation (housewife, farmer, fisherwoman, vendor, trader, worker, etc.)

-To initiate projects of intervention and of development in order to create activities which can generate revenues in one hand and in the other hand to build adequate infrastructures (day cares and recreational centers for children).

-To establish links with the outside world (associations, organizations, commissions, women's meetings) in order to broaden APDW's horizon in women's global struggle for equality, peace, and development.

-To enhance the social, economic, and political role of Malian women and to defend their rights.

4. Malian Association of Human Rights (MAHR)

The Malian association of human rights (MAHR) is humanitarian, apolitical, non-profit, and non-confessional. Its headquarters are in Bamako.

The goals of the Malian association of human rights are:

-To study and promote human and people's rights.

-To safeguard the primacy of the law and to insure the respect of rights and freedoms in compliance with the laws, regulations, and regularly ratified treaties.

-To encourage the respect of the laws and regulations by citizens, and all legal obligations of everyone toward society and the state.

-To ensure a large diffusion of the principles of human's, citizen's, and people's rights both through training and information.

-To encourage research, studies, and collection of documents on human rights in general, African and Malian, in particular.

-To cooperate with all national and international organizations and institutions interested in the promotion and the protection of human and people's rights.

-To undertake or help in the publication of studies, research, books, bulletins on the promotion and the protection of human rights.

-To organize conferences colloquia, seminars and workshops for the promotion of human rights.

Projects of the MAHR include:

- Plan for Training

Plan of support for the training of police officers, forestry officers, customs officers, economic affairs agents, tax collectors in order to limit excesses. The topics will be decided upon consulting with the concerned services.

- Plan of support for teaching human rights in schools

a). in higher education: conferences, information days with the cooperation of prominent figures from foreign universities.

b). high school: study of national institutions and of the laws of the country.

- Topics to be formulated in plans for information and formation International level

Seminars, colloquia, meetings on topics related to human rights organized by the United Nations Center for Human Rights, the International Commission of Jurists, the International Federation of Human Rights, the NOVIB, DANIDA, and all organizations committed to the promotion of human rights.

5. Action Committee for the Rights of Children and Women (ACRCW)

For the first time ever, the constitution of Mali (Third Republic) has considered women's and children's rights. After the adoption of the new constitution which is favorable to human rights and democracy, access to information on the law must become an instrument for the effective application of the law. Its headquarters are in Bamako.

These coming years the ACRCW will work toward the organization of women for their access to economic, financial, technical, and judicial information. It will also aim at the education of women so that they know and use their rights for a significant change in a new Mali.

V. Legislative Institutions of Mali

A. Introduction

Legislatures have been said to be at the center of the decision-making process in representative modern government until the executive branch, particularly when representing a majority party, became the heart of representation (Friedrich, 1950, 296-353). Following or expressing this evolution, many writings on legislatures assess the view of the decline of parliaments. But parliaments and parliamentarians are still playing an important role in Western democracies (Arter, 1984, Loewenberg, Patterson, Jewell, 1985, Suleiman, 1986).

In Africa, if not in the Third World in general, legislatures have never enjoyed a central role or a good reputation. An important part of the conventional wisdom in the study of African politics is that legislatures, by the time of independence and the proliferation of one-party regimes, were marginal in the law-making process (Kornberg and Musolf, 1970) and became rubber-stamps with the essential political power in the hands of the chiefs of the Executive branches. This was so even if they were performing some other functions for the political systems (elite recruitment, legitimization, integration, representation) in which they persisted (Binder, 1964, Eldridge, 1977, Mezey, 1985).

Starting with the hypothesis of weak legislatures, the context of the movement toward the democratization of African societies will suggest a new distribution of power among political institutions, a shift of the power from the executive to the legislature, or at best, a revaluation of the role of the parliaments and parliamentarians.

We here study the effective status and role in Mali of the "Assemblée Nationale" (AN), within the context of new democratic institutions and governance practices at the beginning of the country's Third Republic. This analysis is undertaken in the light of the dimensions of governance and democratization provided by Robert Charlick in his 1992 paper for the USAID Africa Bureau. Charlick conceives governance "as the effective management of public affairs through the generation of a regime (set of rules) accepted as legitimate, for the purpose of promoting and enhancing societal values sought by individual and groups". He describes democratization as "a particular set of governance relationships or ways of achieving governance objectives, (which) emphasizes accountability through open competition for authority (usually through electoral choice among alternatives), responsiveness and policy pluralism through participation, particularly by non-state actors, and respect for human rights, needed to assure the viability of these other democratic traits". (Charlick, 1992)

These conceptions, from the perspective of the legislature in a democratizing country like Mali, raise first the issue of the generation of the new regime within which the legislature will function. Second, Mali's AN is a result of an "open competition through electoral choice among alternatives". As such, the questions of its accountability and responsiveness to the population and the political parties, must be addressed. Likewise, attention should be paid to the issue of participation by the legislature (as a whole) and legislators (individually) in the National decision-making process.

We intend in this section of the assessment to address the obstacles to the functioning of the Malian legislature which could constrain the consolidation of democracy and governance practices in Mali. We focus on the following points:

1. **The General Political Context** within which the functioning of the Malian legislature is taking place is reviewed in section B below, covering the following points:
 - a) The context of the transition from authoritarian rule and the effective mode of transition is examined to determine how far the role, place and functions of the AN are determined by the political background of the country.
 - b) The constitutional choices made by the Malian "democratizers" (regime type, electoral system) are reviewed because of their direct impact on the distribution of powers between the executive and the legislative branches; The role of the AN and the Députés are examined with reference to other political institutions, because these origins will determine the nature of Mali's democracy (consensual or majoritarian), and its fate (Elster and Slagstad, 1988, Lijphart, 1992 a and b).
 - c) The transition elections are very important in their own right because of the importance of the "founding elections" in any democratizing country. Moreover, they set the political configuration in the AN and thus provide important clues for the ways in which the Malian Legislature could perform its different functions.
2. **The AN as a Representative Body** is reviewed in section C below, with analysis of the following points:
 - a) The constitutional status of the AN and the personal status of the Députés.
 - b) The Bureau of the AN and the political configuration in the Parliament.
 - c) The parliamentary groups and party politics in the AN.
 - d) The social composition of the AN.
 - e) The Députés and their constituencies.

The aim is to determine how the on-going experience of representation, accountability, responsiveness and opportunities for policy pluralism may affect the process of democratic consolidation. In Mali as in other countries, legislation is not the isolated province of a representative assembly. One of the political functions of the AN is also to be an arena of integration and co-ordination of conflicting interests. So the AN as a body and the Députés as individuals will be analyzed as integrating agency and actors through which claims of various interests groups and the policy of the government are expounded to the population.

3. **The AN as a Deliberative Body** is reviewed in section D below. Aside from its representative and integrative functions the AN has also to deliberate in order to solve concrete problems of the community. The question will be consequently to determine how the current experience of decision-making and legitimization can affect the process of consolidation of democratic governance. To do so the following points will be examined:
 - a) The internal rule of procedures
 - b) The legislature-executive relations
 - c) The legislative powers
4. **The Proposed Strategy and Recommendations** for USAID/Mali support of the new Malian legislature are reviewed in Section E below. The general aim of the promotion of good governance and democratic consolidation in Mali, from the perspective of the legislature, is based altogether, on theoretical inferences implied by the constitutional choices made given the specific background of the democratization process, the analysis of the most critical and urgent needs of the legislative branch and on the remedies suggested by the people interviewed.

B. The Political Context of the New Malian Legislature

1. The Context for Transition

Apart from the much determining level of socio-economic development, the Malian context of transition to democracy within which the legislative body, its powers, relationships with the executive branch and primary needs must be analyzed and understood, is a contingent outcome of different factors such as the authoritarian nature of the preceding regimes and a peculiar mode of political transition.

(a). An Authoritarian Background

Since independence from France on September 22, 1960, after the breakdown of the short-lived Federation of Mali (Senegal and French Soudan), Malians have lived under authoritarian rule under two republics. The First Republic from 1960 to 1968, headed by the first President Modibo Kéita, was characterised by its socialist orientation, growing cases of violations of human rights, economic stagnation, rising social and political unrest which led to a military coup d'Etat by Lt Moussa Traoré, in 1968.

The Second Republic was an outgrowth of an authoritarian military regime which, as usual in Africa in the late 60's, the 70's and the 80's, tried to legitimize itself by instituting a one-party system in its Constitution. The subsequent absence of the fundamental liberties (freedom of speech and association, etc.) and the record of violations of human rights led to growing discontent in the society, leading to popular demonstrations, riots, strikes, escalating

finally to insurrection and revolution which ended in the overthrow of Moussa Traoré's regime in March 1991.

(b). A Specific Mode of Transition to Democracy

The Malian mode of transition from authoritarian rule is unique in Africa. As with any mode of transition to democracy, it will have an important impact on the process of establishing and consolidating a democratic regime.

The uniqueness of the Malian path to democracy lies not in the fact that the pressure from below took on specific forms, but in the fact that while the President Moussa Traoré was postponing the return to political pluralism, the scope of the social movements led to the intervention of a group within the army organized as the "Comité de réconciliation Nationale" which overthrew the one-party regime. This very significant event provided Mali with a rather special logic of democratization. It put an end to the social and political unrest, but more importantly, its immediate political consequence was the total collapse of the former single party, the "Union Démocratique du Peuple Malien" (UDPM). This meant that the Malian "democratizers" later on assembled in the "Comité de Transition pour le Salut du Peuple", (CTSP) -a broad range of Malian associations who together fought the authoritarian regime- will not have to fight against the social, economic and political interests represented by the former one-party state. The Mali experience is unlike the cases of Côte d'Ivoire, Congo, Togo or Zaïre, where the socio-economic groups associated with the authoritarian state tried (sometimes successfully) to delay or to reorient the process of democratization; In Mali, the entire political class, old and new members, was favorable to democracy; even the rather authoritarian leftist or radical faction of the former US-RDA, now reconstituted as the Baba Akhib Haïdara's branch (called RDA- Comité directeur) associated with ADEMA, within the framework of the "Pacte républicain". During an interview, the members of the executive bureau of the party defended their record under Modibo Kéita's rule, on the ground of the violations of human rights, against that of the Moussa Traoré's regime.

The other main political consequence was the fact that the convening of the "Conférence Nationale Souveraine" (CNS) called of Mali's transitional mode for by the pro-democratic forces prior to the overthrow of Moussa Traoré, was not indispensable. This explains why the Malian CNS did not follow the script set by Benin and repeated in Congo, Niger, Togo and Zaïre. Mali avoided many controversial matters like the trial of the political leaders of the former regimes.

(c). The Transition Period

It seems clear today that the inter-regnum of the CTSP has created a solid foundation for democratic governance. But the CTSP is the source of some potential difficulties for the consolidation of democracy in the short as well as in the long term.

The strong commitment to democracy and the desire to succeed expressed by diverse groups representing the entire political spectrum (explainable by what Malians have learned from

years of authoritarian rule under successive regimes since independence and the specific mode of transition to democracy) are among the most obvious positive effects of the transition period. The important role played by the private dynamic and very outspoken free press and the radio stations has laid a ground worth for the possibility that the media if provided with much needed technical and financial assistance, will develop as a fundamental support for political pluralism in the country.

Colonel Amadou Toumani Touré (familiarily called "ATT") inaugurated a new style of power as chair of the CTSP by adopting a less formal style and a simple way of life. For example, he lined up as an average citizen to vote on election day. This demonstrated to Malians that a President could be close to the people. The new President of the Republic, Alpha Oumar Konaré, has followed ATT's example by dressing casually, contrary to the average African "cadre" or President, and he is popularly called "Monsieur Trois poches" because of the design of his ordinary attire. While there are accusations of his being demagogic, the symbolic aspect of this new style of leadership is noted and discussed in Mali and in neighbouring countries. The commentary on the "populist" approach is not all favorable, particularly among the educated elites and more traditional parts of the society. His first visit to Segou in August was overtly criticized by a commentator on "Radio-Liberté", stressing the fact that the President has committed many mistakes. For instance, instead of staying in his local residence and receiving the notables of the area, he had travelled to visit a few (and forgetting others) of the "great families", and sitting at the same level with "ordinary" people to chat with them (the daily newspapers, "L'Essor" and "L'Aurore" showed a picture on their frontpage, and TV also showed images of this event). This behavior is at odds with the traditional culture in the Bambara areas.

2. The Constitutional Choices: a Semi-Presidential Majoritarian Regime

Many constitutional choices have to be made in democracies. Among the most important of them are the choice of relationships between the executive and the legislature (presidential versus parliamentary government) and the choice of electoral system (majoritarian system versus proportional representation). If there is no consensus on the best alternatives, political scientists agree on the fact that the choices made will have social and political consequences. Their short- and long-term effects (Elster and Slagstad, 1988) can have far-reaching impact on how well the democratic system operates (Linz, 1990, Lijphart, 1992 a and b, Lijphart and Grofman, 1984). Also, "these choices strongly influence the basic orientation-- majoritarian or consensual-- of the democracy that is being created: presidential government and electoral rules like the first-past-the-post (plurality) method promote the former, and PR and parliamentary government the latter orientation" (Lijphart, 1992a, 208).

Some of the consequences are already visible in Mali. For a newly democratizing African country, these choices can be very crucial for two reasons. First, as acknowledged by many officials, the Malian democratic constitutional engineers have made their choices in a hurry, within a special political and social context which lacked the necessary opportunity for reflection. Second, the entire success of the democratic polity may depend on the constitutional choice. However, it must be added that the values, the beliefs or the culture

and the behaviour of the rulers, will be also important in creating the new institutions, for, as Montesquieu has put it; "Dans la naissance des sociétés ce sont les chefs des républiques qui font l'institution; et c'est ensuite l'institution qui forme les chefs des républiques".

Before going into details regarding the constitutional structures of the new regime, we offer two general comments and one observation.

The first comment is that the political institutions in Mali are designed for a fully developed democracy with articulated political parties, a strong civil society and a well educated political class and masses. In a number of aspects they seem to be at odds with social realities.

The second comment is that the general constitutional framework is closely patterned on the French constitution of 1958. In response to questioning regarding this issue some of the "Fathers of the Constitution" of Malian Third Republic, stressed a number of innovations, some examples cited include the unusual provisions about democracy, human rights (in the preamble and section I) and the fact that the elected President and the ministers must make public their financial and material assets (Section III clause 37) all of which they said are closely related to the local context. In fact, Malian innovative provisions are more philosophical or symbolic, while the more technical and practical aspects of the powers granted to the different institutions derive from the French constitution of the Fifth Republic. Moreover, some of the constitutional innovations and distances taken with the French model (the AN drafted freely its internal rule of procedures, the number of parliamentary committees is not limited by the Constitution, the AN have unlimited power regarding financial amendments, etc.), theoretically give more powers to the Malian AN than its French counterpart. But in fact, it seems like the Malian constitutional engineers have had second thoughts and put limits and restrictions to the exercise of these powers in some of the provisions of the "Règlement intérieur", for example the clause 52 of the section 2 which forbids any reduction or increase of the public spending without providing an equivalent resource. The reasons to this self-limiting of the power of the AN remain unclear after many discussions.

Finally, we observe that it will not be possible to fully assess how and why the Malian constitutional engineers have chosen one or the other of the basic alternatives, even if one must think of the legacy of the French culture or legal traditions. The general constitutional framework creates a semi-presidential regime different on important points from the more presidential type of the Second Republic. The majoritarian election methods have been chosen for the election of the President of the Republic and that of the members of the AN, while PR has been preferred for the municipal elections.

Both, the type of the political regime created, (the specific relationship between the Executive and the Legislature and the powers granted to each institution), and the electoral system which provides adequate basis for the functioning of the new political institutions and the legitimacy of the rulers will have direct impact on the organization and functions (representation and deliberation) of the AN.

(a) A Semi-Presidential Regime

Between the two basic types of political regimes, parliamentary and presidential, Malians have chosen a third type, a semi-presidential regime, closely patterned on the French Constitution of 1958.

The concept of semi-presidential regime refers to institutions of a Western democracy (Weimar, Finland, Austria, Ireland, Iceland, France, Portugal). This combines the two following elements: a) a president of the republic elected by universal suffrage, and granted specific powers; and 2) a prime minister and a government responsible to the members of parliament.

Thus in Mali, the political institutions are partly presidential and partly parliamentary. Here as anywhere, the functioning and the effectiveness of the regime will depend on three variables: the powers which the new Constitution granted the President, the existence or the lack of a parliamentary majority and the position of the President of the Republic in relation to this majority (Duverger, 1986, 7-17).

The status and constitutional powers of the president (section 3, clauses 29-52) define the minimum of the prerogatives at his disposal. Neither the government nor the AN can prevent his exercise of his constitutional powers. But the customary interpretation of these powers, large or restricted, will have an important and direct impact on the President's actions.

As in the French constitutional tradition, the number of constitutional clauses dedicated to an institution is indicative of its powers, importance and role in the political system. Two sections of the Malian Constitution and 30 of its clauses concern the executive branch. Only one section and 11 clauses cover the AN. Theoretically, then the Presidency as an institution has more powers and importance than the Parliament. It is not necessary to review here the specific powers of the President in the new Constitution. It is sufficient to observe that unlike under the Second Republic, where the dissolution of the AN was only possible under exceptional conditions (Section 3, clause 32), the President of the Republic is now granted a distinct power to dissolve the Parliament (Section 3, clause 42).

On the practical level, the control of the legislature by a government will be possible if there exists a majority party, which is now the case in Mali. The distinction between legislatures with or without majority (used commonly to account for the differences of functioning between British and Italian parliamentary types) is thus a second determining factor for the political regime. In one case, the "majoritarian regime" like the British parliamentary system, is characterised by the existence in the Parliament of a stable and disciplined majority which will last the entire term and provide a strong and sustained backing to the Government. Consequently, the heads of lasting and active Governments can concentrate the executive power in their hands as Prime minister, and the legislative power as the leader of the parliamentary majority. In the second case, the "no-majoritarian regime" like in Italy, because of the number and the strength of the political parties, the Parliament lacks an

homogeneous and lasting majority to support the Government.

This distinction between assemblies with or without majority is not limited to parliamentary regimes. It is very useful in the regimes where parliament is granted important powers as in the semi-presidential type, like in France since 1962 (majoritarian), or Weimar and Finland (without majority). But in the framework of the semi-presidential regime, the distinction is complicated by a third factor, which is the relationship to the majority of a President elected by universal suffrage.

The existence of a majority in a semi-presidential regime can lead to three different situations. First, if the majority and the President are from the same political stand and if the President is the leader of the majority (which is the actual case in Mali), the situation is very close to that of the British majoritarian system: the President accumulates the powers of both the Prime Minister and the Queen. By adding his constitutional prerogatives to the political might of a leader of the majority, the President of the Republic can dominate the Government and the Parliament. In a second situation, if the existing parliamentary majority is opposed to the President, the latter will be confined to his constitutional powers while the Government and the majority are under the rule of the Prime minister who becomes the real chief of the Executive like a British Prime minister. The history and the practice of the "cohabitation" in France (March 1986-May 1988) between a socialist President, François Mitterand, and a conservative Prime Minister leader of a right wing party, Jacques Chirac, are a perfect illustration of this situation. The "cohabitation" period in France emphasized the role of the political majority in a semi-presidential regime, the nature of problems it must face, and how flexible this type of regime can be. But the "success" or the "failure" (depending on political or ideological preferences) of this experience owed much to the personality of the two principal actors, the President and the Prime Minister.

The third conceivable situation is the one in which the President is kept more in the background: the majority and President belong to the same political side, but the President is not the leader. In this case, the exercise of his constitutional powers could more or less be at the mercy of the leader of the parliamentary majority, to whom the President may be politically subordinated as has been for example the case for M. Kirchschrager in Austria.

The concept of "semi-presidential regime" is more heuristic than descriptive. The question of which features, presidential or parliamentary, will be predominant in the functioning of the regime, only, practice, time and history will tell.

But, the Malian new political institutions are not only consonant with the definition provided above, the outcomes of the transition elections has provided a specific political context for the functioning of the regime which could have an important and direct impact on the process of consolidation of democracy. True to the first type of relationships between the President and the parliamentary majority described above, this context is characterised by the fact that the President of the Republic elected by universal suffrage is the leader of a strong and coherent parliamentary majority. Alpha Oumar Konaré, the new President, has in his hands

two sources of power. First are the important juridical prerogatives which the Constitution granted the President of the Republic and which at the same time are making of him one of the incarnations of the popular sovereignty as a direct expression of the people. Second, the political might of the leader of a majority enhanced by the signature of the "Pacte républicain" between ADEMA and 3 other political parties, and this position could allow him to dominate the Parliament as illustrated by British parliamentary practice of more than a century, or to have the hegemonic position of the French President since 1962.

(b) Electoral Code and Majoritarian Democracy

There are two basic different electoral systems which can be used in free and fair elections. The traditional Anglo-saxon countries' system (United Kingdom, United States of America, older members-states of the Commonwealth) of the "First-past-the post" or "simple majority" is well known for its major practical advantage of producing Government with an adequate working majority in the Parliament. But it is also criticized for distorting the popular will, for it does not accurately reflect the voting strength of the various political parties contesting the election.

"Proportional representation" (PR) is one of the various systems devised to avoid inaccuracy and unfairness of the simple majority system, mainly to secure the representation of the minority groups within the electorate.

To elect the President of the Republic (Section 3, clause 131 of the electoral code) and the Députés (Section 4, clause 154) and PR for the "Conseillers municipaux" (Section 5, clause 157), the Malian democratic constitutional authors have chosen a majoritarian election method called "the second ballot," used in France under the Third and Fifth Republics. This gives the two main political institutions the same popular source of legitimacy.

In this system, if no candidate secures the absolute majority of the votes (in his constituency for the Députés or at the national level for President), a second round of election is organized, one week later. Only the two candidates who got the highest totals of vote in the first round are allowed to run in the second ballot and to be elected, a simple majority is sufficient. As was the case during the presidential elections in Mali, voters who supported the less successful candidates at the first ballot can switch their votes at the second. And, even if the defeated candidates are not "propriétaires" of the votes of their electors, they are able to give recommendations on which of the two contestants to vote for. Baba Akhib Haidara, one of RDA two candidates for presidency, publicly asked his supporters to vote for Alpha Oumar Konaré and not for the other candidate of the RDA, Tiéoulé Mamadou Konaté. Obviously, this support has something to do with his position of "Ministre d'État" in the Government and the fact that his branch of the RDA has signed the "Pacte républicain".

This electoral system which allows the various political parties contesting an election to measure their strength and support in a constituency or in the whole country at the first election, is very popular in Francophone Africa (Bénin, Congo have used it recently).

Political opponents want it to be adopted in countries like Cameroon, Côte d'Ivoire and Central African Republic, where the simple majority system is used. The main reason is that, while securing majority representation, it also permits representation of minority groups when the "horse-trading" in party officials in the interval between the first and second ballot are well conducted.

Only two political parties in Mali argue that the electoral system did not reflect accurately their support and strength in the country, and are asking for change in the provisions of the electoral code. The RDA (the two branches) is in favour of the PR, while the CNID prefers a mix of PR and majoritarian system and wants to make it part of the Constitution in order to avoid frequent changes. The fact of their small electoral success could be one explanation for these points of view. If the attitude of the RDA seemed more ideological, Maître Mountaga Tall, the leader of CNID, former candidate to the presidential elections (he came third) and Député at the AN, gave assurance that his party only wants a fair electoral system, and its inclusion in the Constitution is the proof of his politically neutral position.

Finally, if the influence of foreign democratic models (the French) have been determining in many aspects, one needs to analyze in depth the political forces during the transition period to check Stein Rokkan's (1970) two explanations of the constitutional choices (here, semi-presidentialism, second ballot majoritarian system, and PR):

- a) a specific logic of democratization which did not require here a bargain between the old established parties (the clandestine past of the ADEMA and the RDA) and the new parties, because it seems that the former, mainly ADEMA, have had an accurate assessment of their strength;
- (b) the relatively limited scope of the ethnic diversity of the population

3. Transition Elections and the "Tyranny of the Majority"

In Mali, the move from a theoretical semi-presidential regime to a potential presidential regime in practice is (as it has been for example the case in France) to a large extent due to the electoral system. But one must admit that the rise of the majority party is also the expression of the ADEMA strength and support in the country, because (among other explanations) of the leading role this party has played over the years in the struggle against the authoritarian regime.

The most obvious political consequence of the recent constitutional choices in Mali, and which will determine the consolidation of democracy in the coming years, is to be found in the outcomes of the transition elections. These elections are important because the victorious party, as in any political system, will play a decisive role in the process of the establishment and consolidation of democracy.

ADEMA's victory at the municipal, legislative and presidential elections is a major political

factor which creates a very specific context for the functioning of the legislative branch. To be sure allegations of frauds have been made, but as Richard Vengroff suggested, the consistency of the electoral returns at the national level and throughout the three successive elections requires a high degree of sophistication to mismanage the elections and it seems that this electoral expertise was lacking.

Whatever the other reasons for ADEMA landslide victory, it is clear that the electoral systems used (proportional representation, for the municipal elections and majoritarian system, a "winner take all" type for the legislative elections) have played an important role in the present political system of representation and participation. The reason given for the use of different types of electoral systems is that the participants at the National Conference wanted fair representation of various political parties at the municipal level where the elected members will learn democracy. But after Malian political scientists and foreign advisers stressed the political instability associated with PR, they have chosen instead a winner-take-all system for the legislative elections, in order to provide a stable majority in the AN.

All this has resulted in different patterns of representation. Despite the fact that ADEMA has more "conseillers municipaux" than any other parties, its majority has never reached the point of outnumbering the coalition of the other parties. For example, in Bamako, ADEMA has only one mayor out of six. To the contrary in the National Assembly, ADEMA is over-represented with 73 Députés out of 116, with 33% of the valid votes. This over-representation has been amplified by the "Pacte republicain", which is now associating three other political parties (US-RDA Comité directeur or Baba Akhib branch, RDT and PDP) to ADEMA in support of the new President. This broad basis (81 deputies out of 116) will have an important effect on the law making process and on the political control that the AN will exercise on the Executive branch.

More than the "tyranny of the majority" anticipated by Alexis de Tocqueville, there is a potential risk of the AN becoming a rubber-stamp as in the past. Some of the Malians interviewed during this assessment fear it could lead, in the 2 or 3 years to come, to another form of one-party system. This hypothesis might well be considered seriously for many reasons. First, the legacy of the one-party political culture, the socialization of the entire political class including the new President within the authoritarian system, the extremely elitist character of politics in Francophone Africa. One can argue, following Goran Hyden, that the "masses" were not really socialized in the "modern state system", thereby remaining an "uncaptured peasantry". Second, the fact that 54 (43 out of the 71 ADEMA Députés) members of political elite of the former one-party state, have been elected Députés, among them 14 former UDPM Députés. This is not really surprising and might in some aspects illustrate of the longevity of politicians and is not specific to Mali. Elsewhere in emergent democracies (Eastern Europe, former USSR, Latin America) new breeds of leaders do not grow on trees or arise overnight. The new regimes have to rely on former leaders of the previous authoritarian rule and here also many past supporters of Moussa Traoré's regime have been very active in the opposition. Third, the other foundations of political pluralism (political parties, media, judiciary and civil society), are weak and many "cadres" will join

ADEMA in a kind of band-wagon effect because you must belong if you want a good political or administrative position.

When asked about the potentiality that the "fait majoritaire" amplified by the "Pacte républicain" could threaten the survival of the opposition and thus of democracy, ADEMA leaders justify their strategy of a national union government by the fact that it is aimed to associate the largest number of the political forces to the exercise of the power in order to ease the social and political tensions in the country. Along with the leaders of the "partis signataires du Pacte Républicain", they advocate their strong commitment to democracy and now (without saying how) that opposition voices will be heard. At the same time, opposition voices say that they do not have access to the dominating state media.

4. Conclusion Concerning Constitutional Choices

Three main points must be emphasized at this stage of the analysis.

--The "dictatorship of the past over the present": The precolonial, colonial, and post-independence authoritarian legacies, must be kept in mind, to understand and foresee the place, role and functions of the new Malian legislature. The culture, the behaviours and earlier political practices, are likely at one time or another to be influential.

--Constitutionalism and democracy in Africa: The political and economical context in France (the process of decolonization, the war in Algeria, the political instability during the Third and Fourth Republics, the role of the political parties, etc.) in the late 50's associated with the personality and charisma of General de Gaulle, provide a sound explanation of the entire political and technical division of powers between the Executive and the Legislative bodies, the very strict regulation of the law-making process, etc. Apart from the legacy of the French culture, the legal tradition in which the Malian democratic engineers have been socialized, the reasons for the adoption of the same pattern in Mali are far from clear. There is also the need to investigate in depth the provisions of the new Constitution, because this fundamental law has been drafted in a kind of hurry, as many officials have acknowledged, and within a special political and social context which lacked the reflection needed.

By adopting the semi-presidential French system and its typical form of "rationalized parliamentarism" ("parlementarisme rationalisé") Mali has an institutional framework within which in spite of its important powers, the AN is weakened vis-à-vis the Executive branch. Moreover, during this legislature, a political context marked by the existence of a dominant party, may alter to some extent, the relationships between the two institutions, the law-making process, delay some potential difficulties, or help to avoid some pitfalls. But it must be stressed strongly that the organization, role, powers and functions, etc., of the AN and the Députés which are going to be analyzed below, must be thought and understood not only within the political context

just described above, but also within the general framework of a democratizing and developing country with a small political elite, where all know each and each knows all and where everybody knows who is who, but above all, a country and a political and legal context where theoretically or psychologically, the Parliament as a political institution has been reevaluated.

--African Legislatures as marginal institutions: A distinction has been made by Nelson Polsby between legislatures as "transformative" institutions and legislatures as "arenas". The former "possess the independent capacity, frequently exercised to mold and transform proposals from whatever source into laws", while in the latter, legislatures "serve as formalizing settings for the interplay of significant political forces in the life of a political system; the more open the regime, the more varied and representative and accountable the forces that find a welcome in the arena" (Polsby, 1975, 277).

Legislatures in developing countries, it has been suggested, are obstacles to developmental change (Kornberg and Musolf, 1970) "declining" vis à vis other political institutions, without real influence in the political system, and generally, marginal to the law-making process. But as they still persist, they must have been performing some alternative political functions, mainly representation and legitimization activities which make them fall in the second category of legislatures suggested by Nelson Polsby.

The question here is not really to find out whether the new Malian legislature falls in either category, because it will be too premature. It is, rather, to analyse the potential of the AN to be called an "arena" because of its current makeup or composition, or "transformative" in the light of the scope of powers granted by the Constitution and its capacity to make long-term changes.

C. The "Assemblée Nationale" as a Representative Body

The relevance of the examination of the non-law-making functions of the AN, its potentiality and effectiveness of being an "arena" in which representatives of diverse groups can meet and discuss divergent interests, is reinforced by the fact that now there is a real competitive access to the system as the brief analysis of the transition elections have shown.

This approach could have some heuristic virtues because if representation provides the minority with symbolic and tangible benefits, it may reduce communalism and strengthen support for the central power. In addition, the social and political unrest in the Northern parts of the country with the Tuareg leads us to ask how Mali is confronting the problems of integration. Given the relatively low and less acute ethnic divisions, the problems may (or may not) have less to do with creating ethnic channels for effective multiethnic participation, than with the ability or the inability of the central Government to fulfill its decision-making duties. For example the re-districting legislation within the general framework of "Décentralisation administrative" can affect minority representation. (See Section III, above).

Factors bearing on the AN as a representative body, and discussed in some detail below, are:

- the status of the AN and that of the Députés, which can set them really apart of the population;
- the importance of the party structures (already obvious in the outcomes of the transition elections, especially in the ways in which the party structure has affected the electoral system in the representation of minority) in the Bureau and through the Parliamentary groups. (See Section II on Political Parties for clues on the relationships between party system and national integration);
- the social composition of the AN, given the very elitist and urban features of politics in Africa, the Malian legislators can be markedly different from the mass population;
- the relationships of the Députés with their constituencies because of their policy responsiveness and their potential or effective purposive roles; can have important and direct impact on the work of the Malian Legislature and also on the process of the consolidation of democracy.

1. The Status of the AN and the Personal Status of the Députés

Defined in the Constitution and the internal rule of procedures of the AN's "Règlement Intérieur" (RI), the status of the AN is similar to that ritually stated in constitutions of many African countries since independence.

Mali has a single chamber Parliament as many African francophone (Congo has now a Second Chamber, a Senate) countries but it must be remembered that in the first draft of the Constitution, the "Haut Conseil des Collectivités" was supposed to become a Second Chamber.

Unlike under the Second Republic, the members of the AN (the Députés) are elected for 5 years (section 5, clause, 61 of the Constitution) instead of 3, and there is no limit to the number of their term.

Little of importance can be said about the personal status of the Députés. Their salary was to be determined sometime after completion of this assessment. But if the President of the Republic earns less than 500.000 F CFA per month, it is predictable that Députés' salary will amount to less than half of that sum. The main question here is whether political careers are going to be as lucrative and attractive under a democratic regime as they have been since the colonial times and under authoritarian rule. The incompatibility between the functions of Députés and that of the holding of positions with fixed salary ("rémunération fixe") in financial corporations and enterprises is stipulated in the "Règlement intérieur", (section 4, clause 150). This closes some of the traditional access of Députés to resources, but the

question remains whether Députés will hold positions in public enterprises and parastatals which have been at the core of past misappropriations of funds. Indeed, it is likely that a more democratic (accountable) context, with free press, independent judiciary, etc., will reduce the number of embezzlements, bribes and other forms of official misconduct.

The Députés benefit from parliamentary immunity and cannot be arrested, trailed or jailed because of votes or opinions expressed while functioning in their official capacity. During or after the sessions of the Parliament they cannot be arrested on criminal charges except in flagrante delicto, without the authorization of the AN (section 5, clause 62 of the Constitution). The question here is how this privilege is going to be guaranteed now that the AN is an important political institution. More than in the past, the Députés are aware of their political and social role, and will be eager to exercise their freedom of speech and their right to criticize the executive power. Some aspects of the Députés' relationship with the Executive, as well as relationship with constituents as described below, may be more crucial in the rural areas than in the capital or in the main towns.

2. The Bureau and the Political Configuration in the AN

The Bureau is the executive organ of the AN. Its role is very important because it is in charge of organization of the debates and of the administration of the AN. Presently it consists of 11 people: 1 President, 4 Vice-presidents, 4 Secretaries, 2 Questors.

The Bureau is headed by a President elected for the entire term (5 years) of the AN (section 5, clause 68 of the Constitution, and section 1, clause 11 of the Règlement intérieur). The highest office-holder in the Parliament is ranked second in the political hierarchy to the Head of State, since the President of the AN is next in line behind the President of the Republic. His main role is to conduct the debates. He is also in charge of the administration of the AN, and has personal powers such as referring any law to the "Cour Constitutionnelle", in order to check its conformity to the Constitution (Section 9, clause 88; see Section IV concerning the Cour Constitutionnelle). In case of the absence of the President of the Republic, or absolute and definitive impairment, the President of the AN will exercise the duties of the President of the Republic for up to 45 days (Section 3, clause 36 of the Constitution).

The other 10 members of the Bureau (Vice-presidents, Secretaries and Questors) are elected for one year and have traditional functions commonly found in Francophone National Assemblies.

The election of the President of the AN and that of the other members of the Bureau led to the first political incidents of the new Malian regime. This question could in the future have an influence in the relationships with the opposition in the AN. At the first meeting of the Parliament, the question was raised as to the priority in drafting the internal rule of procedures or electing the President of the AN. ADEMA opted for the latter and the opposition walked out of the AN and did not take part in the election. Later on a new

incident occurred at the moment of the election of the other members of the Bureau. The opposition argued that the majority had not applied Section 1, clause 12 of the Règlement intérieur, which states that the election of these members will take place by trying ("s'efforçant") to reproduce in the composition of the Bureau, the political configuration within the AN.

It seems that the incident not only reflected divergent interpretations but also had political dimensions. The opposition led by the CNID (9 Députés), focusing on the verb "reproduire", put forward a broad interpretation and argued that a rule of proportionality should be used here. This meant that out of the 11 members, 3 must come from the opposition. ADEMA refused and instead argued that the provision of the "Règlement intérieur" in question never stated the use of PR for the election of the Bureau, and therefore the Bureau itself need not precisely reflect the political configuration of the AN, emphasizing the use of the verb "s'efforcer".

In fact, prior to the election, ADEMA and the opposition had bargained on the sharing of the 11 positions in the Bureau. The opposition was offered one and refused, and then two and refused again, asking for three positions (one Vice-president, one Secretary and one Questor in order to be present at the three levels of the administration of the AN) as a fair reflection of the political configuration in the AN. This proposition was refused by ADEMA, who argued that even if PR were to be applied, the share of the opposition would not be 3 positions.

The consequence of this refusal was that the opposition is not represented in the Bureau. For the first year of the legislature, ADEMA holds 7 positions:

- the President
- 3 Vice-presidents (the first, the third and the fourth)
- the first Questor
- 2 Secretaries

Note: The Bureau includes only the two female Députés (from ADEMA): one is the third Vice-president and the other the first Secretary.

The representatives of the parties who signed the "Pacte républicain" have the four remaining positions:

- the second Vice-President and the fourth Secretary (RDA)
- the second Questor (RDT)
- the third Secretary (PDP).

The fact that ADEMA was obliged to have in the Bureau the representatives of these parties could be part of the reasons for not giving three positions to the opposition.

Based on our discussions with ADEMA leadership in the AN, we believe another factor in

the refusal to allow 3 positions to the opposition was a form of retaliation to the latter's conduct in the municipalities. As it was noted above, in spite of the number of its "Conseillers municipaux" in Bamako, ADEMA has only one Mayor. ADEMA's argument is that if PR should be applied for the election of the members of the Bureau of the AN, it should also have been used for the election of the Mayors.

In addition, the opposition is not chairing any parliamentary standing committees (here also the offer of 1 out of 7 was unacceptable). This could reduce the participation of an opposition already limited in number. But, as the members of the Bureau (with the exception of the President) are rotated every year, there is a possibility that members of the opposition will be elected sometime in the near future. But as the president of ADEMA parliamentary group in the AN put it, all will depend on the good willingness of the opposition. But this will require more than the good will of the actors. The general political and social atmosphere could be poisoned by a number of factors including the trial of former President Moussa Traoré, the latent issues of the Tuareg despite the "Pacte National", the role and place of the army and its former Commander in chief and former President ATT (who have benefited from a rather controversial amnesty law). There is also mutual suspicion in spite of the rather "familial" and convivial behaviours in the Parliament (the President calls the Députés by their first names). There have even been allegations of life threatening pressures on some leaders of the opposition.

3. Party Politics in the AN: the Parliamentary Groups

A Parliamentary Group within the AN is made up of the Députés belonging to the same political party or the same political leanings. As organs of the political parties in the Parliament, the Parliamentary Groups have an important role to play by nominating their candidates to the different positions in the Bureau (Section 1, clause 13 of the "Règlement intérieur"), appointing their members to the different standing parliamentary committees (Section 1 clause 31), setting the agenda of the assembly (Section 1, clause 55), and in the organization of the debates and the votes.

The main part of their functions is exercised within the framework of the "Conference of the Presidents" which comprises the President and the Vice-Presidents of the AN, the Presidents of the Parliamentary standing committees, the Presidents of the Parliamentary groups, the General reporter of the Committee on finances and a representative of the Government. The conference is convened every week by the President, (Section 1, clause 55).

The tightness or looseness of the Parliamentary Groups in their control over the members will be observable mainly at the moment of important voting (for example the adoption of the budget or the defeating of the Government, etc.). However, the disciplining effect of the Groups has not yet been apparent. What appeared very briefly during the first extraordinary session and which might be related to the fact that it was just the beginning was that the larger the Parliamentary Group, the less discipline or control exercised over its members. For example, the assessment team observed, in the lobby of the AN, the President of the

ADEMA Parliamentary group is complaining about some of his fellow Députés who do not attend the meetings of the group. This was right after the adoption of a bill has been postponed.

The ADEMA Parliamentary group (in association with RDA-Comité directeur, RDT and PDP the parties who signed the "Pacte républicain", because of its 81 members, could have problems of that order in the future. The nature of the leadership exercised by a young President in his forties could also be in question given the respect for age factor in African society. But all this will depend on the average age of the ADEMA Députés and on the organization of the party.

The minimum membership of a Parliamentary Group is 7 (Section 1, clause 21). It appeared that this low level of membership was chosen to allow the smaller opposition parties to constitute Parliamentary Groups. Given the small number of their members, the 4 other Parliamentary Groups could be more under the control of their President. They are:

- CNID: 9 members
- RDA (Konaté's branch) and UDD: 9 members
- RDP, UFDF and, PSP: 9 members
- PMD, and UMADD: 7 members

ADEMA could have raised the membership level for the Parliamentary Groups, but this might have led to a coalition of the political parties of the opposition. The relatively low level of membership is not only a reflection of the opposition partisan strengths in the assembly, but does also keep the opposition divided.

4. The Social Composition of the AN

The social composition of the AN may also give some indication of the responsiveness of the Députés not only to their parties but also to the entire electorate. The relevance of AN social composition to the expression of policy pluralism in the AN is suggested by Frederick Frey in his analysis of the Grand National Assembly in Turkey (1920-1957): "When one examines the social background of the deputies... one obtains, ipso facto, information on the backgrounds of all the cabinets and ministers, on the formal leadership of the Assembly, and on the top political party leaders as well" (Frey, 1965, 6).

Close examination of the social composition of the AN would require data on the education, occupation, family backgrounds, religious beliefs, age and sex of the 113 Malian Députés. Unfortunately, this type of data was not available at the time of the assessment. Nevertheless, there are two reliable sources of information--added to the impressions resulting from the interviews conducted--from which one can draw preliminary conclusions: the plethora of literature describing the backgrounds of people who held elite positions in African states, and the small amount of biographical data available on the members of the Bureau of the AN.

The literature on the holders of political positions in Africa since colonial times confirms some of the most important features of the members of the political elite almost everywhere when compared to the rest of population:

- a) "The Best and the Brightest": they have reached the highest levels of education in the frameworks of the successive educational systems (colonial and post colonial);
- b) Upper social status: many members of the first political elite generation were social upstart, "des mobiles sociaux", taking the opportunity of colonization, Western education and politics to escape from the social status of their parents. In the more stable states, process of social reproduction led to partial reproduction of the political elite. This was evidenced, for example, in Côte d'Ivoire by the presence of "political heirs", daughters and sons of former political leaders, a phenomenon which is observable in the new political elite in Mali. For example, the election of Ibrahim N'Douré (chair of the RDA-Konaté's branch-UDD parliamentary group), the son of Maître Hamaciré N'Douré, former minister of Modibo Kéita at Youwarou in the region of Mopti. Discussions during this assessment with leaders have shown a kind of sociological petrification of the political elite. Evidence of the plausible existence of "political dynasties" is suggested by the presence of the sons of Fily Dabo Cissoko and Hamadoun Dicko, as leaders of the PSP, Tiéoulé Mamadou Konaté's candidacy to the presidency, the presence of Modibo Keita's young brother in the executive bureau of the RDA-Comité directeur, the role of the "Grandes familles " (Tall, Konaké, Campo, etc.), and also by the personal fate of Mountaga Tall of CNID, heir of the main branch of the descent of El Haj Umar Tall. Mountaga Tall has denied allegations that the success of his party relies mainly on the influence of his family ties by saying that many members of his close family are in ADEMA and other political parties. He points out the fact that CNID has fared well in Ségou (6 Députés out of the 9 obtained by the party), in Bambara area, outside the zone of influence of his family, stressing the very active role of his party in the struggle against Moussa Traoré's régime and its implantation nation wide, as the main factors of its political success.
- c) Over-representation of the civil servants: In Francophone, Africa, even in countries reputed to have been led by a "Planters' bourgeoisie", the first occupation of the elite had been in the civil service. The fact that these countries are "Républiques de Fonctionnaires" remains observable over the years even if businessmen, lawyers and professionals are getting greater access to the political elite.
- d) "All Male Political Clubs": the fact that African Francophone states are "Male chauvinist Republics" also holds true over the years. The reasons for the gender gap in politics are mainly sociological as elsewhere, and do not have too much to do with whether the regime is democratic or authoritarian. In fact, some authoritarian regimes in the recent past have allocated more political positions to women than have resulted from transition elections in many countries, including Mali.

- e) Age: an average age rather high given the rather young majority of the population. The age factor is important in African culture and hence in politics, because here, maybe more than elsewhere, there is a very close link between age, wisdom, and power.

The few data available on the members of the Bureau of the AN taken as a representative sociological sample seem to corroborate some of these sociological features of the political elites:

- Under-representation of the women, 2 out of 11 (18%);
- High levels of education: 5(45%) have university degrees and 6 have completed secondary school ("baccalauréat" and professional training).
- High occupational status: 9 (81%) are high ranking civil servants and 2 from the private sector among which, the youngest Député (34 years old) and graduated in management from ENA in 1988, was "Employé de Commerce" (an illustration of the under-employment of the young graduates part of the wide spread phenomenon of the "Chômage des intellectuels"). The professional backgrounds also reveal a lasting feature of African political elite, the domination of the teachers and professors (6 out of the 9 civil servants and 54% of the total), best exemplified by the election of a Professor as President of the Republic or that of a Professor of medicine as President of the AN.
- A middle-aged political élite. The average age is more than 45 years, the youngest member being the 34 years old bachelor first Questor, Mohamed Sacko, ADEMA Député of Koulikoro. The oldest is the 61 years old voluntary retired former "Chef d'arrondissement" (1982-1987) and former Dép: (1979-1982) and now RDT Député of Mopti, Seydou Karamoko Tall.

A special mention must be made here about the fact that the 13 Députés of the Malians abroad are not elected yet. The reasons are diplomatic or international (because neighbouring countries like Côte d'Ivoire are reluctant to host, on their territories, foreign Députés with parliamentary privilege) and also technical (how to organize the vote of those abroad). Thus, the question is raised as to the best way to meet the issue of the representation of the more than 2 millions people abroad. One possibility is use of the American absentee ballot system or electing residents Malian to represent those abroad.

The preliminary conclusion which can be drawn, even in the absence of ample empirical assessment, is that the Malian Députés appear markedly distinct from the mass population with regard to education, age, gender, social mobility and occupation.

But, whatever the precise sociological composition of the AN, it is quite obvious that the

social status of the Députés will play an important role in the parliamentary work, particularly in their relationships with their constituencies in the ways they carry on popular education and perform reconcile conflicting interests and points of view. To be sure, in Mali as elsewhere, the backgrounds of the legislators could be indicative of the level of integration of the political system. Providing diverse ethnic, regional or social groupings, presenting particular identities and needs with an adequate representation in the Legislature, might constitute one way of ensuring political integration.

5. Allocative and Service Relationships: Députés and Constituents

It was not possible during this assessment to survey the members of the AN to ask them to describe their role as legislators and their purposive roles outside of the Parliament. An analysis of the relationship between constituents' views and the roll-call voting behaviour of the Députés would enlighten on responsiveness of the AN. But, roll-call voting is not a constitutional practice because of the emphasis on the conception of the national role of the Député (Section 5, clause 64 of the Constitution), and this has been stressed by the President of the AN. However, the Députés interviewed said that outside of the AN they fulfilled both national (they are representing the "people") and local roles (the region and the district from which they were elected, even if explanations provided for the spatial or geographical sharing of this role where there is more than one Député, were confusing sometimes). This confirms the usefulness of role analysis to determine levels of representation.

The volume of representational activities with policy consequences the Députés have to cope with is very large. They can be divided in to two categories following Eulau and Karps (1977), "allocation responsiveness" and "service responsiveness".

The first category concerns the Députés' efforts to make sure that their region or district receives its fair share of the state resources. As "développeur" or "entrepreneur", their main task will be to extract resources from the central government to finance and implement local development projects (small plants, agricultural cooperatives, etc.), and to meet other various forms of socio-economic needs, like schools, hospitals, roads, bridges, etc. To fulfill this role, the Député must be a good communicator who brings the needs and demands of its region or arrondissement to the attention of the Government, and at the same time, explaining Government policy and trying to gain popular support of his\her constituency to the central power. The nature of his\her effective or potential capabilities to do "something" for his\her constituency, the type of linkage or relations he\she has ("friends in high places") or he\she can build with the centre will be important, and former social, political and administrative functions could be decisive here. But it is clear that the current economic situation in Mali may impede the fulfillment of this dimension of the representational activities.

"Service responsiveness" refers to particularized services that the Députés are asked to perform for their constituents and which are going to transform them into "assistants sociaux" for their region or village. They have to meet quasi-daily needs and demands for jobs,

financial assistance for food, school tuitions, medical care, weddings, burials and other various forms of social activities. But as many Députés have stressed, they are engaged in ombudsmanlike activities in order to manage the rather complex relationships between the local officials (judge, doctor, tax collector, police or "gendarmerie", custom officer, water and forestry officer and various kind of "fonctionnaires", etc.) and the people. This is a very important matter, because these civil servants usually behave like local "potentates" and go well beyond their legitimate power, in a context within which traditional cultural norms and one-party procedures, have propagated habits of fear and deference to the authority and strong attachments to patron-client relationships. The fulfilment of these activities requires more than being an effective power broker. To meet these needs and demands, the Député must be a relatively well-to-do person, and the traditional and modern social status could have an impact here. For Députés without a solid economic base, the potential for misappropriation of public is present.

Allocative and service activities link the central authorities to the constituencies through the Députés. While aggregating and articulating the demands and the needs of the latter to the former, they also communicate with the citizens, their constituents, on the behalf of the central power, explaining government policies, encouraging compliance and thus generating popular support for the regime through mobilization and legitimization functions.

These dimensions of the broader concept of representation could reveal important for democratic governance at this stage of the process in Mali given the current economic situation and the recent past of the relationships between the central power and the mass society. The function of engendering support for the regime (mobilization and legitimization by providing symbols and/or reality of democracy) requires an adequate balance between national and local roles.

The tendency to perform these constituency-service functions will vary according to three factors. First, the structures of the political organizations. Strong and disciplined political parties can force the compliance of their Députés. Second, the coercive and incentive measures at the disposal of the Government. Third, the existence of a broad or minimal policy consensus will be necessary in order to avoid the fact that Députés members of the parliamentary majority are explaining government policies in their regions or districts, while opposition Députés are more oriented toward the advocacy of the interests of their constituencies to the Government.

The nature and volume of activities which the Malian Députés have to deal with are very different from those of their Western counterparts. The differences are explainable in terms of the rather personalized conception and practices of political and social relationships, the low differentiation between the political realm and the non-political, the weakness of the civil society, and the loose aggregation and articulation of interests. A compounding factor for all of these in Mali is the level of economic development.

It may be premature to conclude which individual Député or groups of Députés are

performing better in their representative and integrative roles. Equally difficult is to try to find differences in the ways in which individual or particular groups of Députés will define and fulfill these activities. But one can properly suggest that more than ideological or partisan postures, the orientation of the Députés toward their constituencies could vary with the nature (rural and less developed or urban more developed) region or arrondissement represented, the margin of the electoral victory, the present strength and implantation and structure of his\her political party, and whether or not the Député is a newcomer in politics.

What seems obvious and certain is the fact that all the members of the AN interviewed during this assessment are very conscious that their relationships with their constituencies. Of necessity, this will be in many aspects very different from those of the First and Second republics: if they want to be reelected they must be attentive and responsive to their constituencies, they have to offer something concrete in return for the votes of their constituents. The real problem is not really the lack of experience with the democratic context. The most important question is how and where to find resources to meet the numerous constituency needs and demands.

6. Conclusions Concerning the AN as a Representative Body

Two main features of the representative functions of the Malian AN which can have important and direct impact on the process of consolidation of democracy and governance must be emphasized. The first, central to any democratic system, is the fate of the opposition. The second feature refers to the activities of the Députés outside of the AN.

--Carl Friedrich wrote that : "Ultimately, the representative function of elected assemblies depends upon the general recognition that not the majority alone but majority and minority together represent the nation." (Friedrich, 1950, 323). Further, he quoted Jennings saying: "The one permits the other to govern because the second permits the first to oppose, and together they lead their parties in the operation of the constitutional machine. The "national" Government is truly national because it has a National Opposition and the people are free" (Jennings, 1940, in Friedrich, 1950, 323). How does the present situation of the majority and of the opposition in Mali fits into this view of the representative function of an elected assembly? The question goes far beyond the fact of the ADEMA overwhelming majority, the number of opposition parties in the AN, the number of their Députés, or the facts that opposition members are not holding positions in the Bureau and chair no Parliamentary standing committee. It reaches that of the role of an opposition in African politics, its social and cultural basis.

In the short and the mid-terms, the survival of oppositions could be threatened by the pervasiveness of the one-party political culture, the zero-sum game behaviour of the party in power, the weakness of political parties, the idea that, "En Afrique, pour qu'un parti existe il faut qu'il soit au pouvoir", as put cynically by an African political actor, and the potential band-waggon effect exerted on the members of the

social elite. But in the long run, the real threat will be in the cultural basis of political opposition, the capacity of the African political elite to invent or to re-invent (by looking back to pre-colonial political practices, the re-examination of the reasons of the failures of previous oppositions and the breakdown of democratic regimes inherited from colonial powers, etc.) a conception and a role congruent with African socio-cultural values. Oppositions are now essential to democracy but they are a relatively new phenomenon and a product of the political development of Western democracies. (Dahl, 1966). It seems necessary to rethink their critical functions, even "constructive", their strategies and goals, etc., in Africa, for, as Mountaga Tall rightfully pointed out, there is a lack of understanding of the role and place of opposition in the Malian population. The preliminary version of a "Code moral de Conduite entre l'Opposition et la Majorité gouvernementale", drafted under the CTSP regime, previously supposed to give an official statut to the opposition but limited its ambition to just being a moral code of conduct, has not been passed as a bill for unknown reasons. But it is a first and positive attempt which illustrates the level of the awareness of the place and role of opposition, in democratic governance.

--The consolidation of democracy and governance practices in times of belt tightening might be very difficult, and this seems to be the worst context within which the Députés have to fulfill allocative and service activities outside of the AN. The reasons are not only economical, they are also political or cultural.

Because of the emphasis which has been put on democracy as a prerequisite to development by foreign donors and African political actors alike, and the belief in the existence or the promise of a "bonus for democracy" ("prime à la démocratie") resulting from a misreading of French President François Mitterand's speech at La Baule in June 1990 made by some prominent African political actors, the expectations are very high. And so is the risk of disenchantment. African masses in less than 3 years have reached the age of "democratic disillusionment", to use Sartori's words. Democracy is presented as not necessarily desirable for its intrinsic characteristics, but for its supposed developmental virtues, and the "bonus" to the economy the foreign donors should give.

But the representational role orientation of the AN has also strong decisional content. Representative and deliberative functions are thus closely intertwined, for, the Malian AN as an elected body has to respond to concrete needs of the people, and the Députés, if they want to be re-elected, must, while deliberating, think of the reactions of their constituents.

D. The "Assemblée Nationale" as a Deliberative Body

African legislatures are reputed as being "rubber-stamps" or, at best, for having limited decision-making authority. The current situation in Mali could lead to the same conclusion about the new legislature in the country and this might be harmful for the consolidation of democratic governance.

Indeed, at face value, the Malian Constitution and the internal rule of procedures adopted by the AN restrict the powers of the Parliament in the law-making process because of the system of "rationalized parliamentarism". Also, because of the "majoritarian democracy" coming out of the transition elections, one can suppose that the AN will be very compliant, the bills passing very easily.

In the Malian Constitution (section 5, clauses 59-69 and section 6, clauses 70-80) and in the 100-articles-long "Règlement intérieur" (RI), the functioning of the AN is strictly regulated. In this regard, Europe's post-World War I concept of "parlementarisme rationalisé" is obvious and operative. The essential objective is to prevent the Parliament from paralysing the action of the Government. This can be observed in the procedure of drafting and contents of the internal rule of procedures, the legislative-executive relations, and in the law-making-process.

1. The "Règlement Intérieur" and the Self-Limitation of the AN

As with the French Constitution of 1958, many provisions of rationalized parliamentarism are aimed to guarantee the efficacy of the action of the Parliament. But the main concerns in France were political, not administrative: reducing the prerogatives of the Assemblies and increasing the means of action of the Government over them in order to avoid the instability and the weakness of the Governments under the Third and Fourth Republics. Lacking the same political history and experience, the relevance of the adoption of this tight regulation of the AN by the Malian constitutional engineers remains open to questions. But as a French-trained political scientist and jurist in Mali put it, you have to take your "model" somewhere, "surtout s'il est positif", and the closest and most available model was the French.

It must be added here that, the Constitution of the Second Republic in Mali (Section 5 clauses 38-48 and Section 6, clauses 49-60) has retained many features of this system, as did almost all the Francophone countries in their first Constitutions in the early 60's.

(a) The Drafting of the RI

The Malian AN was free in the drafting and the contents of its internal rule of procedures (Section 5, clause 68 of the Constitution), except the fact that the "Règlement intérieur" must be submitted to the "Cour Constitutionnelle" for the checking of its conformity to the Constitution (Section 9, clause 86) prior to its enactment. Because the AN could use this freedom in the drafting of its internal rule of procedures to enhance its powers, this control is in favour of the Government who can take this opportunity to ensure that the AN will not do so. Thus, one can say that in fact the AN was not that free, but what is surprising here, is the fact that the AN self-limited itself.

(b) The Contents of the RI

Mali has departed in some aspects from the French model of the rationalized parliamentarism limiting the freedom of the assemblies in the regulation of their internal structures and working conditions. In Mali, the number of parliamentary standing committees (7), the control of the agenda of the AN, the organization of the debates, the procedure of amendments, the right to delegate the vote, and the creation of special committees of inquiry and control are stated in the "Règlement intérieur", not in the Constitution. But only the location of these provisions is different, for whether in the Constitution or in the RI, they are the same and may have the same political and practical consequences which still are the control and the limitation of the action of the AN. As it has been said above, the usefulness of this displacement and the reasons of this self-limitation are not clear. One reason could be a second thought of the constitutional engineers, and another, an intention to make these provisions easier to change whenever necessary.

2. The Legislature-Executive Relations

Because semi-presidentialism means also semi-parliamentarism, and within the framework of rationalized parliamentarism, the AN is granted some political powers of control over the Government who in return is granted symmetrical powers. But the effective use of these powers will depend on the existence of a stable and solid parliamentary majority.

(a) Means of Action of the AN over the Government

The powers of control granted to the AN can be divided in two categories. The first category covers the actions affecting the publicity given to the parliamentary actions. This includes written and verbal questions, control and inquiry committees (Section 3, clauses 87-91 of the RI), and financial controls including the vote on the budget and control of public spendings.

The exercise of the second category of powers can result in the resignation of the Government (Section 3, clauses, 92-94 of the RI and Section 6, clauses 78-79 of the Constitution).

- i) The Vote on the Budget. There are two restrictions to the financial power of the AN. The first is the suppression of the parliamentary initiative in the domain of spendings. This British principle (dating back to 1713) which forbids the MP to propose new spendings or to cut back resources (missing in the new Constitution, contrary to the Constitution of the Second Republic) is stipulated in the RI, Section 2, clause 52. The second restriction is the time allowed to the AN to vote the budget (Section 6, clause 77 of the Constitution). The budget must be voted at the end of the October session (75 days); if not, within two weeks the Government will call for an extraordinary session of eight days within which the vote must be completed, otherwise,

the budget will be enacted by the Government on the basis of the previous resources after an advice of the Supreme Court.

- ii) The Responsibility of the Government to the AN. According to the provisions of the Constitution (Section 4, clauses 54, and Section 6, clauses 78-79) and of the RI (Section 3, clauses 92-94), there are two important parliamentary controls through which the Députés can oblige the Government to resign. First, at their own initiative, by adopting a motion of censure against the Government. Second, by refusing a vote of confidence to the Government, when requested on its program, a general political declaration or a bill. In both cases, the strict regulation of the procedures among which a requested majority of 2/3 of the members of the AN may pass the no-confidence motion makes the process of responsibility of the Government to the AN very exceptional, limited to times of genuine political crisis.

b) Means of Action of the Government over the AN

Rationalized parliamentarism is above all about the control by the Executive of the legislature, and the President of the Republic and the Government are granted many powers to do so.

- i) The Limitation of the Parliamentary Sessions: According to the Constitution (Section 5 clause 65), the National Assembly is convened two times a year, on the first Monday of October, for not more than 75 days and on the first Monday of April for not more than 90 days. It could be convened for extraordinary sessions at the request of the Prime Minister (as it was the case during the presence of the team in Mali in August) or that of the majority of the members of the Parliament, (Section 5, clause 66). The limitation in the number and the length of the sessions means a restriction in time (6 months a year) of the control the Députés can exercise on the Government.
- ii) The Control over the Contents of the Internal Rule of Procedures: The RI, as it was said above, must be submitted to the constitutional court before its enactment.
- iii) The Control of the legislature Process: The Government has at its disposal many means of action to control the law-making process, including the following:
 - The control over the agenda of the AN: While the Constitution is mute on this matter, many provisions of the RI (Section 2, clauses 54, 55 and 81) grant the Government the power to establish priority for consideration of the draft bills, whatever their origin ("proposition" or "projet").

- The suppression of the parliamentary initiative in the domain of public spending, which goes beyond the vote of the budget, examined above (Section 2, clause 52 of the RI).
- iv) The Power to Dissolve the AN: This is the absolute "weapon" for control of the Legislature granted by the Constitution to the President (Section 1, clause 42). The dissolution of the AN could be invoked in retaliation for a vote of censure, a refusal of a vote of confidence. In case of political crisis, it could be used as a tool of pressure on the Députés who might fear going into elections before the end of the normal term of the AN.

Typically around the world, the relations between the executive and the legislative branches are weighted to the former's advantage. But, dominance of the executive need not be taken for granted. Legislative dominance will depend to a great extent on two factors: the scope and the discipline of a parliamentary majority, and the staffs in charge of the management of these relations.

c) The Political Context and the Effectiveness of the Relations

In the French model of rationalized parliamentarism copied in Mali, the Government's influence over the legislature was intended to ensure a solid, stable parliamentary majority that had been absent from the Third and Fourth Republics. As illustrated by the Fifth Republic since 1962, the solid majorities in support of the Government in the Parliament up to June 1988 vindicated this strategy.

The Malian Government currently has strong support in the AN within the framework of the "Pacte républicain". There is no obvious reason for the AN to defeat the Government, nor for the President of the Republic to dissolve Parliament. The discipline within ADEMA and less importantly within the coalition in power, the "majorité présidentielle", will be determining. The breadth and the stability of the parliamentary majority will constitute the prime basis of the efficacy of the means of action of the Government over the AN, for without a support of a solid and stable majority, most of the procedures of rationalized parliamentarism can be overturned. One of the fundamental reasons for the choice of a majoritarian system for the election of the Députés, or a reason to keep it in the future, is its congruence with this type of regime.

The management of the relations between the executive and the legislature is also an important factor. Each of the two institutions has a Secretary General; the Secretary General of the Government has the rank of Minister. The latter's office is relatively well equipped and staffed, including a deputy Secretary General, in charge of the administrative relations with the other institutions, and another Deputy in charge specifically of the relationships with the AN. On the other hand, the Secretary General of the AN, while himself experienced in government, lacks the equipment and staff support of the counterpart executive branch office.

Discussions during this assessment with the two staffs suggested that the relations between the two institutions were conducted more as technical or administrative matters than political. In part this is because of the political context where one party dominates.

The relations between the two institutions are also affected for the moment by legal, administrative and communication problems, partly due to the normal shake out period of a new institution. On the one hand, because of his experience as former Secretary General of the Government, the current Secretary General of the AN said that the hierarchical boundaries to be crossed in the communication process are too many, with potential for many delays and conflicts. But these views were not shared at all by the deputy Secretary General of the Government. On the other hand, the lack of a legal deadline in the RI, for the transmission of the amendments to the Government is posing a problem of matching the agenda of the Ministers with that of the AN; this has been verified during the August 1992 extraordinary session.

The deputy Secretary General of the Government stressed some problems of communication, including lack of reliability of the information transmitted between the Parliament and the Government because the AN debates are transcribed by hand. At both offices of the Secretaries General, lack of computers and software, insufficient copying machines to produce enough copies of the bills to be distributed to the Députés prior to their discussion in the parliamentary committees, poorly trained personnel, and inadequate sources of information and documentation constrain the law-making process. For instance the Government has the constitutional duty for the promulgation of a law within two weeks of its enactment (section 3 clause 40), but because of these problems, it can not meet the deadline.

While these difficulties affect the working conditions of the Legislature, they are far from representing a fundamental weakness of the system.

3. Legislative Powers and Decisional Influence of the AN

The examination of the functioning of the parliamentary standing committees, and the law-making process at different stages (initiation, modification, acceptance-rejection, review) will demonstrate the dominance of the executive branch.

It must be stressed that the timing of the assessment mission (the first session of the AN) and the time limits precluded detailed analysis of specific legislation or extensive interviews of the Députés. It was not possible, for example, to measure the influence of the AN at different phases of law-making process, or to identify informal rules governing the policy-making activities of the Députés which are likely to exist, given the nature of the social relations in African countries.

However, because of the type of regime (semi-presidentialism and rationalized parliamentarism), the political context, the modes of legislative influence of the AN, --e.g., its capacity to resist legislation introduced by the Government or the nature of the constraints

that it can place on the Government that would not make it vulnerable to dissolution-- will depend on the stability and discipline of the "majorité présidentielle."

(a) The Parliamentary Standing Committees as Units of Action

The Malian constitutional engineers have adopted the American system of specialized standing Parliamentary committees, segmented along jurisdictional subject matters like finance, foreign affairs, rural development, etc. The number of committees is limited to 7 by the "Règlement intérieur" (Section 1, clause 29), thus departing here also from the French model where the Constitution of 1958 limited the number to 6. The sphere of competence of the committees varies from 6 governmental activities to 2. The allocation of competence, added to the limitation of the number of committees, has the main effect of avoiding specialization and a tight control of each committee on the activities of a particular ministerial department. But it may lead to work overload of the committees, given the limitation of multiple committee membership (to 2) and their small size (21 people) with the exception of the Committee on Finance, Economy and Planning.

As in any democracy, and here with the revaluation of the legislative function, the Parliamentary committee's assignments seem to be the main road to Députés' influence and success as participants in the governmental process, with important consequences for the functions and performances of committees, for the interests affected by committees decisions, inside and outside of government and for the public policies that emanate from the AN.

Neither interviews with the Députés, nor the limited data on their social and professional background, indicated whether there are differences in the attractiveness of particular committee assignments. Because the committee status system was not objectively established at the time of this assessment, an indication of committee prestige, could be, for example, the presence of the prominent opposition leader, Maître Mountaga Tall in the "Commission des Lois Constitutionnelles, de la Législation, de la Justice, de l'Administration Territoriale et de la Décentralisation", given the importance and the actuality of the matters concerned at this specific moment of the regime.

Thus, in the view of the importance of the standing committees as vehicles for considering, modifying and sometimes defeating or burying legislation, one important issue which could have an impact on the overall function of the AN. It is the issue of the appointment of the members of on a proportional basis by the Parliamentary Groups (Section 1, clause 31 of the "Règlement intérieur"). This means that the political parties are represented in the committees according to their numerical strength in the AN. The different Parliamentary groups made up their own panels and through their leaders these panels are presented to the AN for formal approval. Therefore, as is the case now, the coalition built by the ADEMA through the "Pacte républicain" to support the Government has the majority in the different committees because it has the majority in the AN. Given the decisive role played by the standing committees in all matters requiring the action of the Parliament or regarding the relations with the ministries, and at this very moment of the beginning of the process of

consolidation of democracy, this system seems adequate for the effective work of the AN.

These questions of leadership and direction of the parliamentary work are quite important, in light of the new political importance of the AN. When legislative leaders rise in the hierarchy of their party, their responsibilities could increasingly lead them to interactions with the media, the interest group leaders, the executive branch, etc. In Mali, like in France, the Prime Minister, as the "natural" leader of the "Majorité présidentielle", is theoretically the legislative leader who guides his party's program in the AN. What is not clear yet is who is the real leader of majority in the Malian AN: This could be the President of the AN, as political secretary of ADEMA; or the chair of the ADEMA Parliamentary group.

(b) The Law-Making Process

Apart from the involvement of the executive in the exercise of the legislative power mentioned above in the examination of the means of action of the Government over the AN, the different phases of the policy-making process are illustrative of this phenomenon. Also, they reveal the potential decisional influence of the AN, given the current political context in Mali:

- i) Initiation: The initiative for bills is shared between the Government and the Députés (Section 6, clause 75 of the Constitution), although the executive branch dominates here. There are many restrictions on the legislative initiative of the AN, following the world trend that laws emanate mainly from the executive whatever the type of regime. First is the possibility for the President of the Republic to legislate by referendum (Section 3, clause 41 of the Constitution). Then, there is a specific and limited range of legislative topics exclusively within the domain of the legislature whether for specific provisions or for general principles (Section 6, clause 70). All other topics not listed in the Constitution can be handled by executive decrees (section 6, clause 73 of the Constitution). Last, but not least, with the agreement of the AN the Government can be granted the power to initiate legislation on topics within the AN's domain.
- ii) Modification: As stipulated by the Constitution (Section 4, clause 76), the power of modification of draft bills is shared by the members of the Government and of the AN. But following the provisions of the RI (Section 2, clause 78), the debate and the vote at the plenary meeting of the AN start with the draft as reported by the specialized parliamentary committee, instead of that of the Government, who can accept or refuse the modifications proposed by the Députés. In case of refusal by the Government, the AN will vote on the contested points. When the modifications are important to reach the level of "contre projets", the Government has the power to request the discussion of its initial draft (Section 2, clauses 85-86).

The AN, through its specialized committees, can re-draft entirely a bill emanating from the Government, and a large part of the decisional influence of the AN can be exercised at this level. This procedure appears to compensate for the control of the Executive and to the restrictions on AN initiation authority. It might be useful to note here that the same procedure was in use under the one-party system, where the "projets de loi" of the Government became "propositions de loi" after the work of a specialized parliamentary committee.

- iii) Acceptance-Rejection and Review: The two last stages of the law-making process are under the control of the Executive. After the adoption of a bill, the President of the Republic must promulgate it within two weeks. But during this period, he is granted a veto-like power called "seconde lecture" (Section 3, clause 40 of the Constitution and Section 2, clause 80 of the RI), a request which can not be refused to him. To over ride this "veto", the Députés must reject --by absolute majority vote-- the modifications suggested by the President in an open ballot.

It appears, thus, that formally, the three phases of initiation, acceptance-rejection and review are under the effective control of the Executive, while the AN dominates the modification phase of the law-making process. But here, also the actual political context will play a determining role and may not necessarily favour Government. ADEMA's majority in the standing committees does not mean that any bill initiated by the Government will pass easily. The Chair of the ADEMA parliamentary group puts it clearly that the party will not be at the beck and call of the Government ("parti godillot"). It is likely that the AN will be more than a showcase even in the process phases dominated by the Executive. Bargaining between the Députés and the members of the Government will take place in private rather than in public, and this is more likely, given the small scope of the political class. The legislative influence will be exercised primarily during the meetings of the Parliamentary standing committees, because of the relative privacy of the deliberations. Finally, it is also very likely that the decisional role of the Députés will vary with the types of issues: less legislative influence on broad policy questions (economic integration, diplomacy, etc.), and greater influence on narrow issues (local matters, education, system of taxation, etc.). It is quite sure that, whenever it is scheduled, the discussion of the law on the redistricting of the administrative structures within the framework of the "décentralisation administrative", will lead to a great involvement of the Députés.

The law-making process and therefore the decisional influence of the Députés is affected for the moment by lack of some basic human and material resources. First and more importantly is the lack of human resources to provide assistance to the Députés on technical matters, like the budget, international relations, economy, constitutional matters, etc.. There is also a lack of trained personnel (low and intermediary levels) for preparation of material required for the exercise of the legislative power. Indeed, the Députés are free to hire their own personnel, or to use the Government services. But their limited financial resources will

not allow them to do the former, while the latter are more committed to serve the Executive.

Secondly, the lack of some basic material resources is going to have in the short term a direct impact on the working conditions of the Députés. In no particular order, the needed resources are the following:

- a recording system of the debates;
- a well equipped library and a centre of documentation, research and policy analysis with books reviews and other related printed matters;
- computers, software, and duplicating machines;

4. Conclusions Concerning the AN as a Deliberative Body

Two dimensions of the effectiveness of the deliberative function of the AN, must be stressed. The first is partly common to all legislatures while the second is specific to Mali.

--And the AN's capacity to initiate legislation, to modify, delay or defeat bills, to influence administrative actions through parliamentary questions, and investigation. The Malian Legislature can be tentatively labelled as a marginal Legislature with moderate decisional capacities and relatively low levels of support. The avowed commitment of the Députés to democracy, their willingness to be responsive to their constituencies, will undoubtedly boost positively the legislative influence of the AN and, therefore, its popular support.

--The working conditions of the AN, as for the representative function, will adversely affect the decisional role and power of the Députés if they are not provided the basic resources in personnel and material they need to exercise their functions.

E. Proposed Strategy and Recommendations

Because of its authoritarian background, traditional political culture and level of development, the Malian civil society lacks well educated and informed citizens especially outside Bamako. The constitutional choices made are in many dimensions at odds with the social and cultural realities. The landslide victory of ADEMA has left the country with a viable opposition despite the impression of strong attachment of the leaders to democracy, especially in a context where the other foundations or support of pluralism (political parties, media, and independent judiciary) are weak and face huge material difficulties.

The assessment team proposes a strategy to address the three types of needs expressed by the Malians and observed during the mission: material equipment, training, and strengthening of the supports of pluralism.

The overall goal should be to help provide decent material conditions of work, raise the level of training or expertise needed for an effective and efficient exercise of the political as

well as the legislative powers of the AN, and broadening social and cultural basis of democracy in order to promote democracy and good governance.

1. Improvement of the Working Conditions of the AN

The action at this level should meet the most urgent basic needs and help staff or train the personnel involved in the functions of an institution which by its regular meetings provides the symbols and the reality of democracy. This is so even if the legacy of the previous regimes, the traditional political culture, and the new constitutional framework of power do not clearly signal an intended shift of political power from the executive to the legislature.

(a) Equipment

The equipment needs are those which can facilitate the daily functioning of the institution.

- i) Computers and word processing software, recording systems, fax and copying machines.
- ii) A library and a documentation, research and policy analysis centre at the AN and at the Presidency, with adequate material and staff, to provide reliable and useful data and information in matters such as economics, finance, international relations, law, political science, etc.
- iii) Technical assistance to the Députés in drafting and examining bills prior to their discussion in parliamentary committees. The technical assistance need not necessarily be imported from abroad. Much of this assistance can be provided by local NGOs and experts like the Association of the Young Lawyers, and ADIDE, etc.

(b) Program of Training

The aim here should be to provide the Députés, AN staff, and those in charge of the relationships between the political institutions, with the experience or technical expertise needed to accomplish their duties.

- i) The Députés: The members of the AN are in fact aware of their need to be responsive to their constituencies. However, there should be reinforcement against prior "bad habits" of non-responsiveness and to entrench firmly the new commitment to democratic governance. The best "school" apart from a general program of civic education, could be the exchange of experiences between Malian Députés and foreign MPs. American Congressmen or State legislators, Canadian, and European MPs could be convened in Mali to share experiences of their representative and deliberative functions with their Malian colleagues. A program of visits in the USA or Canada could be set for some

Malian Députés, to attend sessions of Federal, State or provincial legislature as well as local councils.

Affiliations with regional and international organizations of Parliamentarians, can greatly contribute to the broadening of the experience of the Députés by providing opportunities of exchanges.

- ii) The Staff: Apart from helping to provide the adequate technical formation to the personnel of low and intermediary levels, the Secretary General at both the AN and the Government as well as the high ranking administrators in charge of the management of the legislative-executive relations can benefit from a program of exchanging of experiences similar to that of the Députés.

2. Strengthening the Bases of Democracy

It is widely acknowledged that a strong civil society is essential to democracy as are political parties. Given the present situation in Mali, the aim here should be to help strengthen the civil society by strengthening the other bases of pluralism. This can be done through a general program of civic education, and by providing special assistance to the media and helping to improve the perception of the place and role of the opposition in the public opinion and thus to contribute to its survival and therefore to the entrenchment of democracy.

(a) Civic Education

Experiences of the designing and implementation of programs of civic education in Third World democratizing countries in Latin America are available and can be adapted to the Malian context. The general aim is to make individual and collective members of society fully aware of their places and roles in a democratic polity. Instruction on Malian Constitution and constitutional law, human rights, civil rights, election monitoring, management of NGO's in their relations with administrative and political authorities, etc., can be part of this program. It could take different forms such as intensive workshops and seminars and use various materials supports like booklets, posters and other printed matters, fabrics, songs and plays performed by local artists in popular languages, video and audio cassettes, etc.

(b) The Media

The political history of Africa south of the Sahara, whether military coups targeting radio and the television facilities or democracy movements making peaceful uses of these facilities, show the importance of the media. Recently opposition leaders in many African countries were complaining about the fact that they do not have fair access to official media. In Mali, the private press has been praised for the role it played during the struggle against Moussa Traoré's regime and during the transition period. It is also significant that in his response to the Prime Minister's "Déclaration de politique générale" at the AN, Maître Mountaga Tall of

CNID mentioned first "la liberté de la presse" as one of the questions that the Prime minister has forgotten to address. Tall, during an interview, has confirmed the interest he has in the media and stressed especially the radio, the importance of their role for the consolidation of democracy in Mali.

This assessment included interviews with journalists of "L'AURORE", (a daily newspaper), "RADIO LIBERTÉ" and "RADIO BAMAKAN". This shed light not only on the important role the private media could continue to play in the democratisation process, but also of the media's needs in financial, technical (basic equipments like powerful transmitters and antennas, computers, etc.) and human resources (professional journalists).

A program of assistance could address essential technical and personnel needs to help guarantee the independence of the press in Mali.

(c) Creating an Official Status for the Opposition

The recommendations in Section II above concerning political parties --especially those in opposition-- can be supplemented by an innovation in African politics: creating an official status for the opposition, within the context of this Malian legislature.

This innovation should go far beyond the rules of the games established in the "code of conduct" drafted under the CTSP regime, which is a first and good step. The idea of a status for the opposition has been recently advocated by the new President of Congo, Pascal Lissouba, but the contents of his project are not yet known.

It has been said that, the perception and the acceptance of the role of the opposition by the mass society are among the many dangers that are threatening the existence and survival of the opposition here and in other African countries. So the idea underlying the creation of an official status for the opposition, is to make its role understable and acceptable for the average citizen, to be congruent to his cultural values. This status could be conceived on the British model with the leader of the opposition having an official position in the institutions of the Republic.

The symbols and the reality of the association of the leader of the opposition (and why not its "shadow cabinet"), to the exercise of power, could have a moderating impact on its critical role which appears as negative for the average African or as personal enmities between the President and the leaders of the opposition, thus accruing its cultural acceptance in the public opinion while not contradicting the feelings of the more westernized social and political elites.

This suggestion is just part of the important need for the rethinking of democracy and governance practices starting from African cultural and social realities which must be considered as integral part of any assistance to the process of the consolidation of democracy in Africa. Seminars and other academic meetings bringing together, social scientists, political practitioners, and donors could be elements of a program in furtherance of this strategy.

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ANNEX I CONSTITUTION

PREAMBULE

Le PEUPLE Souverain du Mali, fort de ses traditions de lutte héroïque, engagé à rester fidèle aux idéaux des victimes de la répression et des martyrs tombés sur le champ d'honneur pour l'avènement d'un Etat de droit et de démocratie pluraliste,

- affirme sa volonté de préserver et de renforcer les acquis démocratiques de la Révolution du 26 Mars 1991,

- s'engage solennellement à défendre la forme républicaine et la laïcité de l'Etat,
- proclame sa détermination à défendre les droits de la Femme et de l'Enfant ainsi que la diversité culturelle et linguistique de la communauté nationale,
- réaffirme sa détermination à maintenir et à consolider l'unité nationale,
- s'engage à assurer l'amélioration de la qualité de la vie, la protection de l'environnement et du patrimoine culturel,
- souscrit à la Déclaration Universelle des Droits de l'Homme du 10 Décembre 1948 et à la Charte Africaine des Droits de l'Homme et des Peuples du 27 Juin 1981,
- réaffirme son attachement à la réalisation de l'Unité Africaine, à la promotion de la paix, de la coopération régionale et internationale, au règlement pacifique des différends entre Etats dans le respect de la justice, de l'égalité, de la liberté et de la souveraineté des peuples

TITRE PREMIER DES DROITS ET DEVOIRS DE LA PERSONNE HUMAINE

ARTICLE 1er/ - La personne humaine est sacrée et inviolable.

Tout individu a droit à la vie, à la liberté, à la sécurité et à l'intégrité de sa personne

ARTICLE 2/ - Tous les Maliens naissent et demeurent libres et égaux en droits et en devoirs. Toute discrimination fondée sur l'origine sociale, la couleur, la langue, la race, le sexe, la religion et l'opinion politique est prohibée.

ARTICLE 3/ - Nul ne sera soumis à la torture, ni à des sévices ou traitements inhumains, cruels, dégradants ou humiliants.

Tout individu, tout agent de l'Etat qui se rendrait coupable de tels actes, soit de sa propre initiative, soit sur instruction, sera puni conformément à la loi.

ARTICLE 4/ - Toute personne a droit à la liberté de pensée, de conscience, de religion, de culte, d'opinion, d'expression et de création dans le respect de la loi.

ARTICLE 5/ - L'Etat reconnaît et garantit, dans les conditions fixées par la loi, la liberté d'aller et venir, le libre choix de la résidence, la liberté d'association, de réunion, de cortège et de manifestation.

ARTICLE 6/ - Le domicile, le domaine, la vie privée et familiale, le secret de la correspondance et des communications sont inviolables.

Il ne peut y être porté atteinte que dans les conditions prévues par la loi.

ARTICLE 7/ - La liberté de presse est reconnue et garantie.

Elle s'exerce dans les conditions fixées par la loi.

L'égal accès pour tous aux médias d'Etat est assuré par un organe indépendant dont le statut est fixé par une loi organique.

ARTICLE 8/ - La liberté de création artistique et culturelle est reconnue et garantie.

Elle s'exerce dans les conditions fixées par la loi.

ARTICLE 9/- La peine est personnelle.

Nul ne peut être poursuivi, arrêté ou inculpé qu'en vertu d'une loi promulguée antérieurement aux faits qui lui sont reprochés.

Tout prévenu est présumé innocent jusqu'à ce que sa culpabilité soit établie par la juridiction compétente.

Le droit à la défense, y compris celui de se faire assister par l'avocat de son choix est garanti depuis l'enquête préliminaire.

ARTICLE 10/- Toute personne faisant l'objet d'une mesure privative de liberté a le droit de se faire examiner par un médecin de son choix.

Nul ne peut être détenu pendant une durée supérieure à quarante huit heures que par décision motivée d'un Magistrat de l'ordre judiciaire.

Nul ne peut être détenu dans un établissement pénitentiaire que sur mandat délivré par un Magistrat de l'ordre judiciaire.

ARTICLE 11/- Tout ce qui n'est pas interdit par la loi ne peut être empêché et nul ne peut être contraint de faire ce qu'elle n'ordonne pas.

ARTICLE 12/- Nul ne peut être contraint à l'exil.

Toute personne persécutée en raison de ses convictions politiques ou religieuses, de son appartenance ethnique, peut bénéficier du droit d'asile en République du Mali.

ARTICLE 13/- Le droit de propriété est garanti. Nul ne peut être exproprié que pour cause d'utilité publique et contre une juste et préalable indemnisation.

ARTICLE 14/- La liberté d'entreprise est garantie dans le cadre des Lois et règlements en vigueur.

ARTICLE 15/- Toute personne a droit à un environnement sain. La protection, la défense de l'environnement et la promotion de la qualité de la vie sont un devoir pour tous et pour l'Etat.

ARTICLE 16/- En cas de calamité nationale constatée, tous les citoyens ont le devoir d'apporter leur concours dans les conditions prévues par la loi.

ARTICLE 17/- L'éducation, l'instruction, la formation, le travail, le logement, les loisirs, la santé, et la protection sociale constituent des droits reconnus.

ARTICLE 18/- Tout citoyen a droit à l'instruction.

L'enseignement public est obligatoire, gratuit et laïc.

L'enseignement privé est reconnu et s'exerce dans les conditions définies par la loi.

ARTICLE 19/- Le droit au travail et au repos est reconnu et est égal pour tous.

Le travail est un devoir pour tout citoyen mais nul ne peut être contraint à un travail déterminé que dans le cas d'accomplissement d'un service exceptionnel d'intérêt général, égal pour tous dans les conditions déterminées par la loi.

ARTICLE 20/- La liberté syndicale est garantie. Les syndicats exercent leurs activités sans contrainte et sans limite autres que celles prévues par la loi.

ARTICLE 21/- Le droit de grève est garanti. Il s'exerce dans le cadre des lois et règlements en vigueur.

ARTICLE 22/- La défense de la patrie est un devoir pour tout citoyen.

ARTICLE 23/- Tout citoyen doit œuvrer pour le bien commun.

Il doit remplir toutes ses obligations civiques et notamment s'acquitter de ses contributions fiscales.

ARTICLE 24/- Tout citoyen, toute personne habitant le territoire malien a le devoir de respecter en toutes circonstances la constitution.

TITRE II

DE L'ETAT ET DE LA SOUVERAINETE

ARTICLE 25/- Le Mali est une République indépendante, souveraine, indivisible, démocratique, laïque et sociale.

Son principe est le gouvernement du Peuple, par le Peuple et pour le Peuple.

Les institutions de La République sont :

- le Président de la République ;
- le Gouvernement ;
- l'Assemblée Nationale ;
- la Cour Suprême ;
- la Cour Constitutionnelle ;
- la Haute Cour de Justice ;
- le Haut Conseil des Collectivités territoriales
- le Conseil Economique, Social et Culturel.

L'emblème national est composé de trois bandes verticales et égales de couleurs vert, or et rouge.

La devise de la République est «UN PEUPLE - UN BUT - UNE FOI».

L'hymne national est «LE MALI».

La loi détermine le sceau et les armoiries de la République.

Le français est la langue d'expression officielle.

La loi fixe les modalités de promotion et d'officialisation des langues nationales

ARTICLE 26/- La souveraineté nationale appartient au peuple tout entier qui l'exerce par ses représentants ou par voie de référendum.

Aucune fraction du peuple ni aucun individu ne peut s'en attribuer l'exercice.

ARTICLE 27/- Le suffrage est universel, égal et secret.

Sont électeurs, dans les conditions déterminées par la Loi, tous les citoyens en âge de voter, jouissant de leurs droits civiques et politiques.

ARTICLE 28/- Les partis concourent à l'expression du suffrage. Ils se forment et exercent librement leurs activités dans les conditions déterminées par la loi.

Ils doivent respecter les principes de la souveraineté nationale, de la démocratie, de l'intégrité du territoire, de l'unité nationale et la laïcité de l'Etat.

TITRE III

DU PRESIDENT DE LA REPUBLIQUE

ARTICLE 29/- Le Président de la République est le chef de l'Etat.

Il est le gardien de la Constitution. Il incarne l'unité nationale. Il est le garant de l'indépendance nationale, de l'intégrité du territoire, du respect des Traités et Accords internationaux. Il veille au fonctionnement régulier des pouvoirs publics et assure la continuité de l'Etat.

ARTICLE 30/- Le Président de la République est élu pour cinq ans au suffrage universel direct et au scrutin majoritaire à deux tours. Il n'est rééligible qu'une seule fois.

ARTICLE 31/- Tout candidat aux fonctions de Président de la République doit être de nationalité malienne d'origine et jouir de tous ses droits civiques et politiques.

ARTICLE 32/- Les élections présidentielles sont fixées vingt et un jours au moins et quarante jours au plus avant l'expiration du mandat du Président en exercice.

ARTICLE 33/- La loi détermine la procédure, les conditions d'éligibilité et de présentation des candidatures aux élections présidentielles, au déroulement du scrutin, de dépouillement et de la proclamation des résultats. Elle prévoit toutes les dispositions requises pour que les élections soient libres et régulières.

Le Président de la République est élu à la majorité absolue des suffrages exprimés. Si celle-ci n'est pas obtenue au premier tour de scrutin, il est procédé à un second tour, le

deuxième dimanche suivant. Ce second tour est ouvert seulement aux deux candidats ayant réuni le plus grand nombre de suffrages.

Si l'un des deux candidats désiste, le scrutin reste ouvert au candidat venant après dans l'ordre des suffrages exprimés.

Si dans les sept jours précédant la date limite de dépôt des présentations des candidatures, une des personnes ayant, moins de trente jours avant cette date, annoncé publiquement sa décision d'être candidate, décède ou se trouve empêchée, la Cour Constitutionnelle peut décider du report de l'élection.

Si avant le premier tour, un des candidats décède ou se trouve empêché, la Cour Constitutionnelle prononce le report de l'élection.

En cas de décès ou d'empêchement de l'un des deux candidats les plus favorisés au premier tour avant les retraits éventuels, ou de l'un des deux candidats restés en présence à la suite de ces retraits, la Cour Constitutionnelle décidera de la reprise de l'ensemble des opérations électorales.

La convocation des électeurs se fait par décret pris en Conseil des Ministres.

La Cour Constitutionnelle contrôle la régularité de ces opérations, statue sur les réclamations, proclame les résultats du scrutin.

ARTICLE 34/ - Les fonctions de Président de la République sont incompatibles avec l'exercice de toute autre fonction politique, de tout autre mandat électif, de tout emploi public, de toute autre activité professionnelle et lucrative.

ARTICLE 35/ Durant son mandat, le Président de la République ne peut, par lui-même, ni par autrui, rien acheter ou prendre en bail qui appartienne au domaine de l'Etat, sans autorisation préalable de la Cour Suprême dans les conditions fixées par la loi.

Il ne peut prendre part ni par lui-même ni par autrui aux marchés publics et privés pour les administrations ou institutions relevant de l'Etat ou soumises à leur contrôle.

ARTICLE 36/ - Lorsque le Président de la République est empêché de façon temporaire de remplir ses fonctions, ses pouvoirs sont provisoirement exercés par le Premier Ministre.

En cas de vacance de la Présidence de la République pour quelque cause que ce soit ou d'empêchement absolu ou définitif constaté par la Cour Constitutionnelle saisie par le Président de l'Assemblée Nationale et le Premier Ministre, les fonctions du Président de la République sont exercées par le Président de l'Assemblée Nationale.

Il est procédé à l'élection d'un nouveau Président pour une nouvelle période de cinq ans.

L'élection du nouveau Président a lieu vingt et un jours au moins et quarante jours au plus après constatation officielle de la vacance ou du caractère définitif de l'empêchement.

Dans tous les cas d'empêchement ou de vacance il ne peut être fait application des articles 38, 41, 42 et 50 de la présente Constitution.

ARTICLE 37/ - Le Président élu entre en fonction quinze jours après la proclamation officielle des résultats. Avant d'entrer en fonction, il prête devant la Cour Suprême le serment suivant:

« JE JURE DEVANT DIEU ET LE PEUPLE MALIEN DE PRESERVER EN TOUTE FIDELITE LE REGIME REPUBLICAIN, DE RESPECTER ET DE FAIRE RESPECTER LA CONSTITUTION ET LA LOI, DE REMPLIR MES FONCTIONS DANS L'INTERET SUPERIEUR DU PEUPLE, DE PRESERVER LES ACQUIS DEMOCRATIQUES, DE GARANTIR L'UNITE NATIONALE, L'INDEPENDANCE DE LA PATRIE ET L'INTEGRITE DU TERRITOIRE NATIONAL.

JE M'ENGAGE SOLENNELLEMENT ET SUR L'HONNEUR A METTRE TOUT EN OEUVRE POUR LA REALISATION DE L'UNITE AFRICAINE ».

Après la cérémonie d'investiture et dans un délai de 48 heures, le Président de la Cour Suprême reçoit publiquement la déclaration écrite des biens du Président de la République.

Cette déclaration fait l'objet d'une mise à jour annuelle.

ARTICLE 38/ - Le Président de la République nomme le Premier Ministre. Il met fin à ses fonctions sur présentation par celui-ci de la démission du Gouvernement.

Sur proposition du Premier Ministre, il nomme les autres membres du Gouvernement et met fin à leurs fonctions.

ARTICLE 39/ - Le Président de la République préside le Conseil des Ministres. Le Premier Ministre le supplée dans les conditions fixées par la présente Constitution.

➔ **ARTICLE 40/** - Le Président de la République promulgue les lois dans les quinze jours qui suivent la transmission au Gouvernement du texte définitivement adopté.

Il peut avant l'expiration de ce délai demander à l'Assemblée Nationale une nouvelle délibération de la loi ou de certains de ses articles.

Cette nouvelle délibération ne peut être refusée et suspend le délai de promulgation. En cas d'urgence, le délai de promulgation peut être ramené à huit jours.

ARTICLE 41/ - Le Président de la République, sur proposition du Gouvernement, pendant la durée des sessions ou sur proposition de l'Assemblée Nationale, après avis de la Cour Constitutionnelle publié au Journal Officiel, peut soumettre au Référendum toute question d'intérêt national, tout projet de loi portant sur l'organisation des pouvoirs publics, comportant approbation d'un accord d'union ou tendant à autoriser la ratification d'un traité qui, sans être contraire à la Constitution, aurait des incidences sur le fonctionnement des Institutions.

Lorsque le Référendum a conclu à l'adoption du projet, le Président de la République le promulgue dans les délais prévus à l'article 40.

ARTICLE 42/ - Le Président de la République peut, après consultation du Premier Ministre et du Président de l'Assemblée Nationale, prononcer la dissolution de l'Assemblée Nationale.

Les élections générales ont lieu vingt et un jours au moins et quarante jours au plus, après la dissolution.

L'Assemblée Nationale ne peut être dissoute dans l'année qui suit ces élections.

ARTICLE 43/ - Le Président de la République communique avec l'Assemblée Nationale et le Haut Conseil des Collectivités par des messages qu'il fait lire par le Président de l'Assemblée Nationale ou par celui du Haut Conseil des Collectivités. Hors session, l'Assemblée Nationale ou le Haut Conseil des Collectivités se réunit spécialement à cet effet.

ARTICLE 44/ - Le Président de la République est le Chef Suprême des Armées. Il préside le Conseil Supérieur et le Comité de Défense de la Défense Nationale.

ARTICLE 45/ - Le Président de la République est le Président du Conseil Supérieur de la Magistrature. Il exerce le droit de grâce. Il propose les lois d'amnistie.

ARTICLE 46/ - Le Président de la République signe les Ordonnances et les décrets pris en Conseil des Ministres.

Il nomme aux emplois civils et militaires supérieurs déterminés par la loi.

Le Grand Chancelier des Ordres Nationaux, les Officiers Généraux, les Ambassadeurs et Envoyés Extraordinaires, les Gouverneurs de Région, les Directeurs des Administrations Centrales sont nommés par décret pris en Conseil des Ministres.

ARTICLE 47/ - Les Membres de la Cour Suprême sont nommés par décret pris en Conseil des Ministres.

ARTICLE 48/ - Le Président de la République accrédite les Ambassadeurs et les Envoyés Extraordinaires auprès des Puissances étrangères.

Les Ambassadeurs et les Envoyés Extraordinaires étrangers sont accrédités auprès

de lui.

ARTICLE 49/ - Le Président de la République décrète après délibération en Conseil des Ministres, l'état de siège et l'état d'urgence.

ARTICLE 50/ - Lorsque les Institutions de la République, l'indépendance de la Nation, l'intégrité du territoire national, l'exécution de ses engagements internationaux sont menacés d'une manière grave et immédiate et que le fonctionnement régulier des pouvoirs publics constitutionnels est interrompu, le Président de la République prend les mesures exceptionnelles exigées par ces circonstances, après consultation du Premier Ministre, des Présidents de l'Assemblée Nationale et du Haut Conseil des Collectivités ainsi que de la Cour Constitutionnelle.

Il en informe la nation par un message.

L'application de ces pouvoirs exceptionnels par le Président de la République ne doit en aucun cas compromettre la souveraineté nationale ni l'intégrité territoriale.

Les pouvoirs exceptionnels doivent viser à assurer la continuité de l'Etat et le rétablissement dans les brefs délais du fonctionnement régulier des institutions conformément à la Constitution.

L'Assemblée Nationale se réunit de plein droit et ne peut être dissoute pendant l'exercice des pouvoirs exceptionnels.

ARTICLE 51/ - Le Président de la République peut déléguer certains de ses pouvoirs au Premier Ministre.

Les actes du Président de la République autres que ceux prévus aux articles 38, 41, 42, 45 et 50 ainsi que l'alinéa premier du présent article sont contresignés par le Premier Ministre et le cas échéant par les Ministres concernés.

ARTICLE 52/ - La loi fixe les avantages accordés au Président de la République et organise les modalités d'octroi d'une pension aux anciens Présidents de la République jouissant de leurs droits civiques.

TITRE IV DU GOUVERNEMENT

ARTICLE 53/ - Le Gouvernement détermine et conduit la politique de la Nation et dispose de l'Administration et de la force armée.

ARTICLE 54/ - Le Gouvernement est responsable devant l'Assemblée Nationale dans les conditions et suivant les procédures prévues aux articles 78 et 79.

ARTICLE 55/ - Le Premier Ministre est le Chef du Gouvernement; à ce titre, il dirige et coordonne l'action gouvernementale.

Il assure l'exécution des lois. Sous réserve des dispositions de l'article 46, il exerce le pouvoir réglementaire. Il est responsable de l'exécution de la politique de défense nationale.

Il peut déléguer certains de ses pouvoirs aux Ministres.

Il supplée, le cas échéant, le Président de la République à la présidence du Conseil et du Comité prévus à l'article 44.

Il le supplée pour la présidence du Conseil des Ministres, en vertu d'une délégation expresse et pour un ordre du jour déterminé.

ARTICLE 56/ - Les actes du Premier Ministre sont contresignés, le cas échéant, par les Ministres chargés de leur exécution.

ARTICLE 57/ - Avant d'entrer en fonction le Premier Ministre et les Ministres doivent remettre au Président de la Cour Suprême la déclaration écrite de leurs biens. Cette déclaration fait l'objet d'une mise à jour annuelle.

Les dispositions de l'article 35 ci-dessus sont applicables aux membres du

Gouvernement.

ARTICLE 58/ - Les fonctions de membre du Gouvernement sont incompatibles avec l'exercice de tout mandat parlementaire, de toute fonction de représentation professionnelle à l'échelle nationale ou locale, de tout emploi public ou de toute activité professionnelle et lucrative.

Une loi organique fixe les conditions dans lesquelles il est pourvu au remplacement des titulaires de tel mandat, fonctions ou emplois.

Le remplacement des membres du Parlement appelés au Gouvernement a lieu conformément aux dispositions de l'article 63.

TITRE V DE L'ASSEMBLEE NATIONALE

ARTICLE 59/ - Le Parlement comprend une chambre unique appelée Assemblée Nationale.

ARTICLE 60/ - Les membres de l'Assemblée Nationale portent le titre de Députés.

ARTICLE 61/ - Les Députés sont élus pour cinq ans au suffrage universel direct. Une loi fixe les modalités de cette élection.

ARTICLE 62/ - Les députés bénéficient de l'immunité parlementaire.

Aucun membre de l'Assemblée Nationale ne peut être poursuivi, recherché, arrêté, détenu ou jugé du fait des opinions ou votes émis par lui dans l'exercice de ses fonctions.

Aucun membre de l'Assemblée Nationale ne peut, pendant la durée des sessions être poursuivi ou arrêté en matière criminelle ou correctionnelle qu'avec l'autorisation de l'Assemblée Nationale, sauf en cas de flagrant délit.

Aucun membre de l'Assemblée Nationale ne peut, hors sessions, être arrêté qu'avec l'autorisation du bureau de l'Assemblée Nationale, sauf en cas de flagrant délit, de poursuites autorisées ou de condamnation définitive.

La détention ou la poursuite d'un membre de l'Assemblée Nationale est suspendue si l'Assemblée Nationale le requiert.

ARTICLE 63/ - Une loi organique fixe le nombre des membres de l'Assemblée Nationale, leurs indemnités, les conditions d'éligibilité, le régime des inéligibilités et des incompatibilités.

La loi organique détermine aussi les conditions dans lesquelles sont élues les personnes appelées à assurer, en cas de vacance de siège, le remplacement des Députés jusqu'au renouvellement de l'Assemblée Nationale.

ARTICLE 64/ - Tout mandat impératif est nul.

Le droit de vote des membres de l'Assemblée Nationale est personnel.

La loi organique peut autoriser exceptionnellement la délégation de vote. Dans ce cas, nul ne peut recevoir délégation de plus d'un mandat.

ARTICLE 65/ - L'Assemblée Nationale se réunit de plein droit en deux sessions ordinaires par an.

La première session s'ouvre le premier lundi du mois d'Octobre.

Elle ne peut excéder soixante quinze jours.

La deuxième session s'ouvre le premier lundi du mois d'Avril et ne peut excéder une durée de quatre vingt-dix jours.

ARTICLE 66/ - L'Assemblée Nationale se réunit en session extraordinaire à la demande du Premier Ministre ou de la majorité de ses membres sur un ordre du jour déterminé.

Lorsque la session extraordinaire est tenue à la demande des membres de l'Assemblée

Nationale, le décret de clôture intervient dès que l'Assemblée Nationale a épuisé l'ordre du jour pour lequel elle a été convoquée et au plus tard quinze jours à compter de sa date réunion.

Le Premier Ministre peut demander une nouvelle session avant l'expiration du mois qui suit le décret de clôture et sur un ordre du jour déterminé.

ARTICLE 67/ - Hors les cas dans lesquels l'Assemblée Nationale se réunit de plein droit, les sessions extraordinaires sont ouvertes et closes par décret du Président de la République.

ARTICLE 68/ - L'Assemblée Nationale établit son règlement intérieur. Le Président de l'Assemblée Nationale est élu pour la durée de la législature.

ARTICLE 69/ - Les séances de l'Assemblée Nationale sont publiques. Toutefois, elle peut siéger à huis clos de sa propre initiative ou à la demande du Premier Ministre. Le règlement intérieur en fixera les modalités. Le compte rendu intégral des débats en séances publiques est publié au Journal Officiel.

TITRE VI

DES RAPPORTS ENTRE LE GOUVERNEMENT ET L'ASSEMBLEE NATIONALE

ARTICLE 70/ La loi est votée par l'Assemblée Nationale à la majorité simple. Cependant, les lois auxquelles la présente Constitution confère le caractère de loi organique sont votées dans les conditions suivantes :

- La proposition ou le projet n'est soumis à la délibération et au vote de l'Assemblée Nationale qu'après l'expiration d'un délai de quinze jours après son dépôt sur le bureau de l'Assemblée Nationale ;

- le texte ne peut être adopté qu'à la majorité absolue des membres composant l'Assemblée Nationale. Les lois organiques ne peuvent être promulguées qu'après déclaration par la Cour Constitutionnelle de leur conformité à la Constitution.

La loi fixe les règles concernant :

- les droits civiques et les garanties fondamentales accordés aux citoyens pour l'exercice des libertés publiques, les sujétions imposées par la Défense Nationale aux citoyens en leur personne et en leurs biens ;

- la nationalité, les droits civils, l'état et la capacité des personnes, les régimes matrimoniaux, les successions et libéralités, le régime de la propriété, des droits réels et des obligations civiles et commerciales, le régime des sociétés, l'expropriation ;

- les crimes et délits ainsi que les peines qui leur sont applicables, la procédure pénale, la police judiciaire, l'extradition, l'amnistie, la création des juridictions, le statut des Officiers Ministériels, le statut des Professions juridiques et Judiciaires ;

- Le statut général des fonctionnaires ;

- le statut général du personnel des Forces Armées et de Sécurité ;

- le régime d'émission de la monnaie, l'assiette, le taux et les modalités de recouvrement des impôts.

La loi détermine également les principes fondamentaux

- de l'organisation générale de la défense et de la sécurité ;

- du droit du travail, de la Sécurité Sociale, du droit syndical ;

- de l'organisation et de la compétence des ordres professionnels ;

- de l'enseignement et de la recherche ;

- de la protection du patrimoine culturel et archéologique ;

- de la comptabilité publique ;

- de la création, de l'organisation et du contrôle des services et organismes publics ;

- des nationalisations d'entreprises, des dénationalisations et du transfert de propriété d'entreprises du secteur public au secteur privé ;

- du régime électoral ;

- de la libre administration des collectivités locales, de leur compétence et de leurs ressources ;

- de l'organisation administrative du territoire ;

- de la gestion et de l'aliénation du domaine de l'Etat ;

- de l'organisation de la production ;

- de l'organisation de la justice ;

- du régime pénitentiaire.

La loi de Finances détermine les ressources et les charges de l'Etat.

Le plan est adopté par l'Assemblée Nationale. Il fixe les objectifs de l'action économique et sociale de l'Etat.

ARTICLE 71/ - La déclaration de guerre est autorisée par l'Assemblée Nationale réunie spécialement à cet effet.

Le Président de la République en informe la Nation par un message.

ARTICLE 72/ - L'état d'urgence et l'état de siège sont décrétés en Conseil des Ministres.

Leur prorogation au-delà de dix jours ne peut être autorisée que par l'Assemblée Nationale.

Une loi en détermine les conditions.

ARTICLE 73/ - Les matières autres que celles qui sont du domaine de la loi ont un caractère réglementaire.

Les textes de forme législative intervenus en ces matières antérieurement à l'entrée en vigueur de la présente Constitution peuvent être modifiés par décret après avis de la Cour Suprême.

Ceux de ces textes qui interviendront après l'entrée en vigueur de la présente Constitution ne peuvent être modifiés par décret que si la Cour Constitutionnelle a déclaré qu'ils ont un caractère réglementaire en vertu de l'alinéa précédent.

Les lois et règlements doivent être publiés au Journal Officiel.

ARTICLE 74/ - Le Gouvernement peut pour l'exécution de son programme ou dans les domaines déterminés par la loi, demander au Parlement l'autorisation de prendre par Ordonnances, pendant un délai limité ou entre les deux sessions, des mesures qui sont normalement du domaine de la loi.

Les ordonnances sont prises en Conseil des Ministres après avis de la Cour Suprême. Elles entrent en vigueur dès leur adoption, mais deviennent caduques si le projet de loi de ratification n'est pas déposé à l'Assemblée Nationale avant la date fixée par la loi d'habilitation. A l'expiration du délai mentionné au premier alinéa du présent article, les Ordonnances ne peuvent plus être modifiées que par la loi dans les matières qui sont du domaine législatif.

ARTICLE 75/ - L'initiative des lois appartient concurremment au Gouvernement et aux membres de l'Assemblée Nationale.

Les projets de loi sont délibérés en Conseil des Ministres après avis de la Cour Suprême et déposés sur le bureau de l'Assemblée Nationale.

ARTICLE 76/ - Les membres de l'Assemblée Nationale et du Gouvernement ont le droit d'amendement.

Après l'ouverture du débat, le Gouvernement peut s'opposer à l'examen de tout amendement qui ne lui aurait pas été antérieurement soumis.

ARTICLE 77/ - L'Assemblée Nationale est saisie du projet de loi de Finances dès l'ouverture de la session ordinaire précédant la période budgétaire. Le projet de loi de Finances doit prévoir les recettes nécessaires à la couverture intégrale des dépenses.

Si l'Assemblée Nationale ne s'est pas prononcée avant l'ouverture de la période budgétaire ou si elle ne vote pas le budget, le Gouvernement renvoie le projet de budget dans les quinze jours à l'Assemblée Nationale convoquée à cet effet en session extraordinaire. L'Assemblée Nationale doit alors statuer dans les huit jours. Si cette délibération n'a pas abouti au vote du budget, celui-ci est alors établi d'office par le Gouvernement sur la base des recettes de l'exercice précédent et après avis de la Cour Suprême.

ART. 78/- Le Premier Ministre, après délibération du Conseil des Ministres engage devant l'Assemblée la responsabilité du Gouvernement sur son programme ou éventuellement sur une déclaration de politique générale.

L'Assemblée Nationale met en cause la responsabilité du Gouvernement par le vote d'une motion de censure. Une telle motion n'est recevable que si elle est signée par un dixième au moins des membres de l'Assemblée Nationale. Le vote ne peut avoir lieu que quarante huit heures après son dépôt. Seuls sont recensés les votes favorables à la motion de censure qui ne peut être adoptée qu'à la majorité des deux tiers des membres composant l'Assemblée. Si la motion de censure est rejetée, les signataires ne peuvent en proposer une nouvelle au cours de la même session.

Le Premier Ministre peut, après délibération du Conseil des Ministres, engager la responsabilité du Gouvernement devant l'Assemblée Nationale sur le vote d'un texte. Dans ce cas, ce texte est considéré comme adopté, sauf si une motion de censure, déposée dans les vingt quatre heures qui suivent, est votée.

ARTICLE 79/- Lorsque l'Assemblée Nationale adopte une motion de censure ou lorsqu'elle désapprouve le programme ou une déclaration de politique générale du Gouvernement, le Premier Ministre doit remettre au Président de la République la démission du Gouvernement.

ARTICLE 80/- La clôture des sessions ordinaires ou extraordinaires est de droit retardée pour permettre, le cas échéant, l'application des dispositions de l'article 78.

TITRE VII DU POUVOIR JUDICIAIRE

ARTICLE 81/- Le pouvoir judiciaire est indépendant des pouvoirs exécutif et législatif. Il s'exerce par la Cour Suprême et les autres Cours et Tribunaux.

Le pouvoir judiciaire est gardien des libertés définies par la présente Constitution. Il veille au respect des droits et libertés définis par la présente Constitution. Il est chargé d'appliquer dans le domaine qui lui est propre les lois de la République.

ARTICLE 82/- Les Magistrats ne sont soumis dans l'exercice de leur fonction qu'à l'autorité de la loi.

Les Magistrats du siège sont inamovibles.

Le Président de la République est garant de l'indépendance du pouvoir judiciaire. Il est assisté par le Conseil Supérieur de la Magistrature.

Le Conseil Supérieur de la Magistrature veille sur la gestion de la carrière des Magistrats et donne son avis sur toute question concernant l'indépendance de la Magistrature.

Le Conseil Supérieur de la Magistrature statue comme Conseil de discipline pour les Magistrats.

Une loi organique fixe l'organisation, la composition, les attributions et le fonctionnement du Conseil Supérieur de la Magistrature.

La loi fixe également le statut de la Magistrature dans le respect des principes contenus dans la présente Constitution.

TITRE VIII DE LA COUR SUPREME

ARTICLE 83/- La Cour Suprême comprend

- une section Judiciaire ;
- une section Administrative ;
- une section des Comptes.

Une loi organique fixe son organisation, les règles de son fonctionnement ainsi que la procédure suivie devant elle.

ARTICLE 84/- La Cour Suprême est présidée par un Magistrat de l'ordre judiciaire nommé par le Président de la République sur proposition conforme du Conseil Supérieur de la Magistrature.

Le Président de la Cour Suprême est assisté d'un Vice-Président nommé dans les mêmes conditions.

TITRE IX DE LA COUR CONSTITUTIONNELLE

ARTICLE 85/- La Cour Constitutionnelle est juge de la constitutionnalité des lois et elle garantit les droits fondamentaux de la personne humaine et les libertés publiques.

Elle est l'organe régulateur du fonctionnement des institutions et de l'activité des Pouvoirs Publics.

ARTICLE 86/- La Cour Constitutionnelle statue obligatoirement sur :

- la constitutionnalité des lois organiques et des lois avant leur promulgation ;
- les règlements intérieurs de l'Assemblée Nationale, du Haut Conseil des Collectivités et du Conseil Economique, Social et Culturel avant leur mise en application quant à leur conformité à la Constitution ;
- les conflits d'attribution entre les institutions de l'Etat ;
- la régularité des élections présidentielles, législatives et des opérations de référendum dont elle proclame les résultats.

ARTICLE 87/- La Cour Constitutionnelle est saisie, en cas de contestation sur la validité d'une élection, par tout candidat, tout parti politique ou le délégué du Gouvernement, dans les conditions prévues par une loi organique.

ARTICLE 88/- Les lois organiques sont soumises par le Premier Ministre à la Cour Constitutionnelle avant leur promulgation.

Les autres catégories de lois, avant leur promulgation, peuvent être déferées à la Cour Constitutionnelle soit par le Président de la République, soit par le Premier Ministre, soit par le Président de l'Assemblée Nationale ou un dixième des députés, soit par le Président du Haut Conseil des Collectivités ou un dixième des Conseillers Nationaux, soit par le Président de la Cour Suprême.

ARTICLE 89/- La Cour Constitutionnelle statue dans un délai d'un mois selon une procédure dont les modalités sont fixées par une loi organique.

Toutefois, à la demande du Gouvernement et en cas d'urgence, ce délai est ramené à huit jours.

Le recours suspend le délai de promulgation de la loi.

Une disposition déclarée inconstitutionnelle ne peut être promulguée ou appliquée.

ARTICLE 90/- Les engagements internationaux prévus aux articles 114 à 116 doivent être déferés avant leur ratification à la Cour Constitutionnelle, soit par le Président de la République, soit par le Premier Ministre, soit par le Président de l'Assemblée Nationale ou par un dixième des députés, soit par le Président du Haut

Conseil des Collectivités ou par un dixième des Conseillers Nationaux.
La Cour Constitutionnelle vérifie, dans un délai d'un mois, si ces engagements comportent une clause contraire à la Constitution.

Toutefois, à la demande du Gouvernement, s'il y a urgence, ce délai est ramené à huit jours.

Dans l'affirmative ces engagements ne peuvent être ratifiés.

ARTICLE 91/ La Cour Constitutionnelle comprend neuf membres: qui portent le titre de Conseillers avec un mandat de sept ans renouvelable une fois.

Les neuf membres de la Cour Constitutionnelle sont désignés comme suit :

- trois nommés par le Président de la République dont au moins deux juristes ;
- trois nommés par le Président de l'Assemblée Nationale dont au moins deux juristes ;
- trois Magistrats désignés par le Conseil Supérieur de la Magistrature.

Les Conseillers sont choisis à titre principal parmi les Professeurs de droit, les Avocats et les Magistrats ayant au moins quinze ans d'activité, ainsi que les personnes qualifiées qui ont honoré le service de l'Etat.

ARTICLE 92/ Le Président de la Cour Constitutionnelle est élu par ses pairs.

En cas d'empêchement temporaire, son intérim est assuré par le Conseiller le plus âgé.

En cas de décès ou de démission d'un membre, le nouveau membre nommé par l'autorité de nomination concernée achève le mandat commencé.

ARTICLE 93/ Les fonctions de membre de la Cour Constitutionnelle sont incompatibles avec toute fonction publique, politique, administrative ou toute activité privée ou professionnelle.

Les membres de la Cour Constitutionnelle prêtent serment au cours d'une cérémonie solennelle présidée par le Président de la République devant l'Assemblée Nationale et la Cour Suprême réunies. Ils prêtent le serment suivant :

« JE JURE DE REMPLIR CONSCIENCIEUSEMENT LES DEVOIRS DE MA CHARGE, DANS LE STRICT RESPECT DES OBLIGATIONS DE NEUTRALITE ET DE RESERVE, ET DE ME CONDUIRE EN DIGNE ET LOYAL MAGISTRAT ».

ARTICLE 94/ Les décisions de la Cour Constitutionnelle ne sont susceptibles d'aucun recours. Elles s'imposent aux pouvoirs publics, à toutes les autorités administratives et juridictionnelles et à toutes les personnes physiques et morales.

Les règles d'organisation et de fonctionnement de la Cour Constitutionnelle, ainsi que la procédure suivie devant elle, sont déterminées par une loi organique.

TITRE X DE LA HAUTE COUR DE JUSTICE

ARTICLE 95/ La Haute Cour de Justice est compétente pour juger le Président de la République et les Ministres mis en accusation devant elle par l'Assemblée Nationale pour haute trahison ou à raison des faits qualifiés de crimes ou délits commis dans l'exercice de leurs fonctions ainsi que leurs complices en cas de complot contre la sûreté de l'Etat.

La mise en accusation est votée par scrutin public à la majorité des 2/3 des Députés composant l'Assemblée Nationale.

La Haute Cour de Justice est liée par la définition des crimes et délits et par la détermination des peines résultant des lois pénales en vigueur à l'époque des faits compris dans la poursuite.

ARTICLE 96/ La Haute Cour de Justice est composée de membres désignés par

l'Assemblée Nationale à chaque renouvellement général. Elle élit son Président parmi ses membres.

La loi fixe le nombre de ses membres, les règles de son fonctionnement ainsi que la procédure suivie devant elle.

TITRE XI DES COLLECTIVITES TERRITORIALES

ARTICLE 97/ Les collectivités territoriales sont créées et administrées dans les conditions définies par la loi.

ARTICLE 98/ Les collectivités s'administrent librement par des Conseils élus et dans les conditions fixées par la loi.

TITRE XII DU HAUT CONSEIL DES COLLECTIVITES

ARTICLE 99/ Le Haut Conseil des Collectivités a pour mission d'étudier et de donner un avis motivé sur toute politique de développement local et régional.

Il peut faire des propositions au Gouvernement pour toute question concernant la protection de l'environnement et l'amélioration de la qualité de la vie des citoyens à l'intérieur des collectivités.

Le Gouvernement est tenu de déposer un projet de loi conforme dans les quinze jours de sa saisine sur le bureau de l'Assemblée Nationale.

Le Gouvernement est tenu de saisir pour avis le Haut Conseil des Collectivités pour toutes actions concernant les domaines cités dans le présent article.

ARTICLE 100/ Le Haut Conseil des Collectivités a son siège à BAMAKO. Il peut être transféré en tout autre lieu en cas de besoin.

Le Haut Conseil des Collectivités ne peut être dissous.

ARTICLE 101/ Les membres du Haut Conseil des Collectivités portent le titre de Conseillers Nationaux.

Aucun membre du Haut Conseil des Collectivités ne peut être poursuivi, recherché ou jugé pour des opinions émises par lui lors des séances du Haut Conseil.

Une loi organique fixe le nombre des Conseillers Nationaux, leurs indemnités, les conditions d'éligibilité, le régime des inéligibilités et des incompatibilités ainsi que les conditions de leur remplacement.

Le mandat de Député est incompatible avec celui de Conseiller National.

ARTICLE 102/ Les Conseillers Nationaux sont élus pour cinq ans au suffrage indirect.

Ils assurent la représentation des collectivités territoriales de la République.

Les Maliens établis à l'étranger sont représentés au Haut Conseil des Collectivités.

ARTICLE 103/ Le Haut Conseil des Collectivités se réunit de plein droit en session ordinaire deux fois par an sur convocation de son Président.

La durée de chaque session ne peut excéder trente jours.

Ses séances sont publiques. Le compte-rendu intégral des débats est publié au Journal Officiel.

ARTICLE 104/ Le Président du Haut Conseil des Collectivités est élu pour cinq ans.

ARTICLE 105/ L'Assemblée Nationale et le Haut Conseil des Collectivités peuvent siéger en comité restreint à la demande du Premier Ministre. Le Président de l'Assemblée Nationale et le Président du Haut Conseil des Collectivités peuvent provoquer une session commune des Députés et des Conseillers Nationaux.

L'ordre du jour de cette session doit porter sur un problème local et régional d'intérêt national.

La durée de cette session ne peut excéder quinze jours.

TITRE XIII DU CONSEIL ECONOMIQUE SOCIAL ET CULTUREL

ARTICLE 106/ - Le Conseil Economique, Social et Culturel a compétence sur tous les aspects du développement économique, social et culturel.

Il participe à toute commission d'intérêt national à caractère économique, Social et Culturel.

ARTICLE 107/ - Le Conseil Economique, Social et Culturel collecte, rédige, avec la participation des différentes entités qui le composent, à l'attention du Président de la République, du Gouvernement et de l'Assemblée Nationale, le recueil annuel des attentes, des besoins et des problèmes de la société civile avec des orientations et des propositions.

ARTICLE 108/ - Le Conseil Economique, Social et Culturel est obligatoirement consulté sur tout projet de loi de Finances, tout projet de plan ou de programme économique, social et culturel ainsi que sur toutes dispositions législatives à caractère fiscal, économique, social et culturel.

ARTICLE 109/ - Le Conseil Economique, social et Culturel peut désigner l'un de ses membres, à la demande du Président de la République, du Gouvernement ou de l'Assemblée Nationale, pour exposer devant ces organes l'avis du conseil sur les projets ou propositions qui lui ont été soumis.

Le Gouvernement et l'Assemblée Nationale ont l'obligation, quand ils sont saisis, de donner une suite aux avis et rapports formulés par le Conseil Economique, Social et Culturel dans un délai maximum de trois mois pour le Gouvernement et avant la fin de la session en cours pour l'Assemblée Nationale.

Il reçoit une ampliation des lois, ordonnances et décrets dès leur promulgation. Il suit l'exécution des décisions du Gouvernement relatives à l'organisation économique, sociale et culturelle.

ARTICLE 110/ - Sont membres du Conseil Economique, Social et Culturel :

- les représentants des syndicats, des associations, des groupements socio-professionnels élus par leurs associations ou groupements d'origine ;
- les représentants des collectivités désignés par leurs pairs ;
- les représentants des Maliens établis à l'extérieur.

Sont membres associés, les cadres supérieurs de l'Etat dans le domaine économiques social et culturel.

ARTICLE 111/ - Le Conseil Economique, Social et Culturel se réunit chaque année de plein droit en deux sessions ordinaires de quinze jours chacune sur convocation de son Président.

Les séances du Conseil Economique, Social et Culturel sont publiques.

ARTICLE 112/ - Le Président et le Vice-Président du Conseil Economique, Social et Culturel sont élus au sein du Conseil par leurs pairs lors de la séance d'ouverture de la première session pour un mandat de cinq ans.

Aucun membre du Conseil Economique, Social et Culturel ne peut être poursuivi, recherché ou jugé pour des opinions émises par lui lors des séances du Conseil.

ARTICLE 113/ - L'organisation interne, les règles de fonctionnement et de désignation des membres du Conseil Economique, Social et Culturel sont fixées par la loi.

TITRE XIV DES TRAITES ET ACCORDS INTERNATIONAUX

ARTICLE 114/ - Le Président de la République négocie et ratifie les traités. Il est informé de toute négociation tendant à la conclusion d'un accord international non soumis à ratification.

ARTICLE 115/ - Les traités de paix, de commerce, les traités ou accords relatifs aux organisations internationales, ceux qui engagent les finances de l'Etat, ceux qui sont relatifs à l'état des personnes, ceux qui comportent cession, échange ou adjonction de territoire, ne peuvent être approuvés ou ratifiés qu'en vertu de la loi.

Ils ne prennent effet qu'après avoir été approuvés ou ratifiés. Nulle cession, nul échange, nulle adjonction de territoire n'est valable sans le consentement du peuple.

ARTICLE 116/ - Les traités ou accords régulièrement ratifiés ou approuvés ont, dès leur publication, une autorité supérieure à celle des lois, sous réserve pour chaque traité ou accord de son application par l'autre partie.

TITRE XV DE L'UNITE AFRICAINE

ARTICLE 117/ - La République du Mali peut conclure avec tout Etat africain des accords d'association ou de communauté comprenant abandon partiel ou total de souveraineté en vue de réaliser l'unité africaine.

TITRE XVI DE LA REVISION

ARTICLE 118/ - L'initiative de la révision de la Constitution appartient concurremment au Président de la République et aux Députés.

Le projet ou la proposition de révision doit être voté par l'Assemblée Nationale à la majorité des deux tiers de ses membres. La révision n'est définitive qu'après avoir été approuvée par référendum.

Aucune procédure de révision ne peut être engagée ou poursuivie lorsqu'il est porté atteinte à l'intégrité du territoire.

La forme républicaine et la laïcité de l'Etat ainsi que le multipartisme ne peuvent faire l'objet de révision.

TITRE XVII DES DISPOSITIONS FINALES

ARTICLE 119/ - La législation en vigueur demeure valable dans la mesure où elle n'est pas contraire à la présente Constitution et où elle n'est pas l'objet d'une abrogation expresse.

ARTICLE 120/ - La présente Constitution sera soumise au référendum. Au cas où elle recueillerait la majorité des suffrages exprimés, le Président du Comité de Transition pour le Salut du Peuple procède à la promulgation dans les conditions fixées par la présente Constitution.

ARTICLE 121/ - Le fondement de tout pouvoir en République du Mali réside dans la Constitution.

La forme républicaine de l'Etat ne peut être remise en cause. Le peuple a le droit à la désobéissance civile pour la préservation de la forme républicaine de l'Etat.

Tout coup d'Etat ou putsch est un crime imprescriptible contre le peuple malien.

TITRE XVIII DES DISPOSITIONS TRANSITOIRES

ARTICLE 122/ - Jusqu'à la mise en place des Institutions, le Comité de Transition pour le Salut du Peuple et le Gouvernement prennent des mesures nécessaires au fonctionnement des pouvoirs publics, à la vie de la Nation, à la protection des citoyens et à la sauvegarde des libertés.

ANNEX II RÈGLEMENT INTÉRIEUR

Règlement Intérieur

~~Décret~~ n° 92...../AN/RM

PORTANT REGLEMENT INTERIEUR DE L'ASSEMBLEE NATIONALE

L'Assemblée Nationale.

Vu la Constitution,

Vu le Décret N°92-022/P-RM du 26-6-92 portant convocation de l'Assemblée Nationale en session extraordinaire, a délibéré et adopté en 1ère lecture

la loi dont la teneur suit :

DISPOSITIONS PRELIMINAIRES :

Article 1er : L'organisation et le fonctionnement de l'Assemblée Nationale sont régis par la Constitution, le Règlement Intérieur et la Loi.

Article 2 : Les membres de l'Assemblée Nationale portent le titre de Député de la Nation.

Article 3 : Le Siège de l'Assemblée Nationale est à Bamako. Il peut être transféré en tout autre lieu de la République. Le siège de l'Assemblée Nationale est inviolable. Il est mis à la disposition du Président de l'Assemblée Nationale et sous sa responsabilité exclusive, les moyens nécessaires pour assurer la sécurité et l'ordre du siège.

Article 4 : Les débats de l'Assemblée se déroulent dans la langue officielle du Mali. Toutefois, les langues nationales pourraient être utilisées.

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TITRE PREMIER :

ORGANISATION ET FONCTIONNEMENT DE L'ASSEMBLEE NATIONALE

CHAPITRE I

ADMISSION DES DEPUTES - DEMISSION

Article 5 : A l'ouverture de la première séance de la législature, le doyen d'âge communique à l'Assemblée la liste des députés conformément à l'arrêt de la Cour Constitutionnelle.

Il en ordonne l'affichage immédiat et la publication à la suite du compte rendu intégral de la séance.

Article 6 : La communication des requêtes en contestation d'élection et des décisions de rejets de ces contestations rendues par la Cour Constitutionnelle est faite par le doyen d'âge ou par le Président, à l'ouverture de la première séance, suivant leur réception.

Article 7 : Les personnes élues dont les pouvoirs n'ont pas encore été validés assistent aux débats sans droit de vote.

Elles ne peuvent déposer ni proposition de loi, ni amendement.

Article 8 : Tout député dont les pouvoirs ont été validés peut se démettre de ses fonctions parlementaires.

En dehors des démissions d'office, édictées par les lois sur les incompatibilités parlementaires, les démissions sont adressées au Président de l'Assemblée qui en donne connaissance à la réunion plénière suivante.

Les démissions acceptées par l'Assemblée Nationale sont immédiatement communiquées au Président de la République.

CHAPITRE II

BUREAU DE L'ASSEMBLEE NATIONALE : COMPOSITION,
MODE D'ELECTION

Article 9 : Le Bureau de l'Assemblée Nationale comprend, outre, le Président :

- 4 vice-présidents
- 4 secrétaires
- 2 questeurs

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Article 10 : Au cours de la première séance de la législature, le doyen d'âge assisté des deux plus jeunes députés invite l'Assemblée Nationale à procéder à l'élection de son président. Les candidatures sont communiquées par les Directions des Partis politiques, au Présidium provisoire avant le scrutin.

Le Président de l'Assemblée Nationale est élu au scrutin secret à la tribune. Si la majorité absolue des suffrages exprimés n'a pas été acquise aux deux premières tours de scrutin, au troisième tour la majorité relative suffit. En cas d'égalité des suffrages, la séance est suspendue pour permettre des consultations. A la reprise si l'égalité persiste il est procédé à un tirage au sort.

Trois scrutateurs tirés au sort parmi les Députés dépouillent le scrutin dont le doyen d'âge proclame le résultat. Le constat est fait par un Huissier. Le doyen d'âge invite le Président à prendre place immédiatement au fauteuil.

Article 11 : Le Président de l'Assemblée Nationale est élu pour la durée de la législature.

Les autres membres du bureau sont élus, au cours de la séance qui suit l'élection du Président et sont renouvelés chaque année, à la séance d'ouverture de la première session ordinaire. Ils sont rééligibles.

En cas de vacances de postes, il est procédé au remplacement dans les conditions prévues aux articles 13 et 14. Les membres ainsi élus continuent le mandat de ceux qu'ils remplacent.

Article 12 : L'élection des Vice-présidents, des Secrétaires et des Questeurs a lieu en s'efforçant de reproduire au sein du bureau la configuration politique de l'Assemblée.

Article 13 : Les présidents des groupes se réunissent en vue d'établir, dans l'ordre de présentation qu'ils déterminent, la liste de leurs candidats aux différentes fonctions du bureau.

Article 14 : Les candidatures doivent être déposées au Secrétariat Général de l'Assemblée, au plus tard une heure avant l'heure fixée pour l'ouverture du scrutin.

Article 15 : Le Président de l'Assemblée Nationale communique la composition du bureau au Président de la République.

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CHAPITRE III

DU BUREAU DEFINITIF ET DES ATTRIBUTIONS

Article 16 : Le Bureau a tous pouvoirs pour présider aux délibérations de l'Assemblée, pour organiser et diriger tous les services dans les conditions déterminées par le présent Règlement.

Il détermine par des règlements intérieurs l'organisation et le fonctionnement des services de l'Assemblée. En outre il fixe les modalités d'application, d'interprétation et d'exécution, par les différents services des dispositions du présent Règlement, ainsi que le statut du personnel et les rapports entre l'administration de l'Assemblée et les organisations professionnelles du personnel.

Article 17 : Le Président préside les réunions du bureau, la conférence des présidents, les séances solennelles et plénières de l'Assemblée ainsi que toutes les manifestations officielles au niveau de celle-là.

Il a la haute direction des débats de l'Assemblée Nationale dont il est la plus haute autorité. A ce titre, il nomme à tous les emplois de l'administration.

Le Président de l'Assemblée Nationale est ordonnateur du budget de l'Assemblée.

Article 18 : Les Vice-présidents suppléent le Président en cas d'absence ou d'empêchement dans l'ordre de nomination.

Article 19 : Les Questeurs, sous la haute direction et le contrôle du Président, sont chargés des services financiers et administratifs de l'Assemblée. Aucune dépense nouvelle ne peut être engagée sans leur avis préalable.

Ils préparent sous la haute direction du Président et en accord avec le Bureau le budget autonome de l'Assemblée qu'ils rapportent devant la Commission des Finances, de l'Economie, des Industries et du Plan.

Les fonds budgétaires sont mis à la disposition de l'Assemblée par Le Ministre des Finances. L'Assemblée Nationale jouit de l'autonomie financière.

Article 20 : Les Secrétaires surveillent la rédaction du procès-verbal et en donnent lecture si elle est demandée. Ils inscrivent les députés qui demandent la parole, contrôlent les appels nominaux, et constatent les votes à mains levées ou par assis et levé, et dépouillent les scrutins.

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CHAPITRE IV

LES GROUPES AU SEIN DE L'ASSEMBLEE NATIONALE

Article 21 : Les députés peuvent se grouper par affinités politiques ; aucun groupe ne peut comprendre moins de sept (7) membres, non compris les députés apparentés dans les conditions prévues à l'alinéa 3 ci-dessous.

Les groupes se constituent en remettant à la présidence de l'Assemblée une déclaration politique signée de leurs membres, accompagnée de la liste de ces membres et des députés apparentés et du nom du président du groupe. Les documents sont publiés au Journal Officiel.

Un député ne peut faire partie que d'un seul groupe. Les députés qui n'appartiennent à aucun groupe peuvent s'apparenter à un groupe de leur choix, avec l'agrément du bureau de ce groupe.

Tout groupe parlementaire doit élire son bureau. Les Présidents des groupes parlementaires sont membres de droit de la Conférence des Présidents. Ils peuvent se faire suppléer en cas d'empêchement.

Le bureau de l'Assemblée Nationale met à la disposition de l'ensemble des groupes parlementaires un secrétariat administratif.

Cependant les groupes peuvent assurer leur service intérieur par un secrétariat administratif dont ils règlent eux-mêmes le recrutement et le mode de rétribution ; le statut, les conditions d'installation matérielle de ces secrétariats et les droits d'accès et de circulation de leur personnel dans le Palais de l'Assemblée sont fixés par le Bureau de l'Assemblée sur proposition des questeurs et des présidents des groupes.

Article 22 : Les modifications à la composition d'un groupe sont portées à la connaissance du Président de l'Assemblée :

- sous la signature du député intéressé s'il s'agit d'une démission ;

- sous la signature du président du groupe s'il s'agit d'une radiation ;

- et sous la double signature du député et du président du groupe s'il s'agit d'une adhésion ou d'un apparentement.

Elles sont publiées au Journal Officiel.

Article 23 : Après constitution des groupes, le président de l'Assemblée réunit leurs représentants en vue de procéder à la division de la salle de séances en autant de secteurs qu'il y a de Groupes, et de déterminer la place des députés non inscrits, par rapport aux groupes.

Article 24 : Est interdite la constitution de groupes de défense d'intérêts particuliers, locaux ou professionnels.

Article 25 : Outre les groupes parlementaires, les députés peuvent sous l'égide de l'Assemblée Nationale, s'organiser en groupes sur la base de données objectives afin de promouvoir l'amitié et la coopération avec d'autres parlementaires.

CHAPITRE V

NOMINATIONS PERSONNELLES

Article 26 : Lorsqu'en vertu de dispositions constitutionnelles, légales ou réglementaires, l'Assemblée doit fonctionner comme un corps électoral d'une autre assemblée, d'une commission, d'un organisme ou de membres d'un organisme quelconque, il est procédé à des nominations personnelles, sauf dispositions contraires du texte constitutif et sous réserve des modalités particulières prévues par celui-ci, dans les conditions prévues au présent chapitre.

Article 27 : Lorsque le texte constitutif impose la nomination à la représentation proportionnelle des groupes, le Président de l'Assemblée fixe le délai dans lequel les Présidents des groupes doivent lui faire connaître les noms des candidats qu'ils proposent.

A l'expiration de ce délai, les candidatures transmises au Président de l'Assemblée sont affichées et publiées au Journal Officiel. La nomination prend immédiatement effet dès cette dernière publication; elle est communiquée à l'Assemblée au cours de sa plus prochaine séance.

Article 28 : Dans les cas autres que ceux prévus à l'article 25, le Président de l'Assemblée informe celle-ci des nominations auxquelles il doit être procédé et fixe un délai pour le dépôt des candidatures.

Si à l'expiration de ce délai, le nombre des candidats n'est pas supérieur au nombre des sièges à pourvoir et si le texte constitutif ne dispose pas qu'il y a lieu à scrutin, il est fait application de l'article 27 (alinéa 2).

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Si les textes constitutifs ne précisent pas les modalités de nomination par l'Assemblée ou de présentation des candidats par des commissions nommément désignées, le Président de l'Assemblée propose à celles-ci de confier à une ou plusieurs commissions permanentes le soin de présenter ses candidatures.

CHAPITRE VI

DES COMMISSIONS

Article 29 : Chaque année, après l'élection du bureau définitif, l'Assemblée Nationale constitue sept commissions générales de 21 membres au plus chacune à l'exception de la Commission des Finances, de l'Economie et du Plan.

Leur dénomination est fixée comme suit:

1°) Commission des travaux Publics, de l'Energie, des Mines, de l'Habitat, des Transports et Communications.

2°) Commission Santé et Affaires Sociales, Education et Culture, Jeunesse et Emploi.

3°) Commission de la Sécurité Intérieure de la Défense Nationale et des Forces Armées.

4°) Commission des Finances, de l'Economie, des Industries et du Plan.

5°) Commission des Lois Constitutionnelles; de la Législation, de la Justice, de l'Administration Territoriale et de la Décentralisation.

6°) Commission des Affaires Etrangères et de l'Intégration.

7°) Commission du Développement Rural et de l'Environnement.

L'Assemblée Nationale peut constituer, en outre des Commissions spéciales ou d'enquête pour un objet déterminé. La délibération portant création d'une commission spéciale ou d'enquête fixe également la procédure à suivre pour la nomination de ses membres.

Pour l'examen des problèmes ressortant à diverses commissions, l'Assemblée peut, sur l'initiative des présidents de commissions, décider la création de groupes de travail temporaires ou permanents, dans lesquels les commissions délèguent elles mêmes un certain nombre de leurs membres, variables selon la nature des problèmes à étudier.

Ces groupes de travail ne peuvent valablement siéger que durant les sessions.

Les commissions de l'Assemblée Nationale sont convoquées à tout moment en dehors des sessions, à la diligence de leur président ou sur la demande de la moitié plus un de leurs membres.

Dans le cas où une commission se déclare incompétente ou en cas de conflit entre deux ou plusieurs commissions, le Président soumet la question à la décision de la conférence des Présidents.

A l'ouverture de chaque session ordinaire ou extraordinaire de l'Assemblée, les commissions lui font un rapport sur les travaux qu'elles ont effectués dans l'inter-session.

Article 30 : La présence aux réunions des commissions est obligatoire. Toutefois, en cas de nécessité absolue, un commissaire peut, à titre exceptionnel, déléguer ses pouvoirs par écrit à un autre membre de la commission.

Tout Commissaire qui s'absente à deux réunions consécutives, sans motif valable, perd le bénéfice du quart de ses indemnités.

Après trois absences consécutives et non motivées d'un commissaire, celui-ci est déclaré démissionnaire d'office par le bureau de la commission, lequel invite l'Assemblée Nationale à le remplacer.

Toutefois ces dispositions ne s'appliquent pas aux membres de l'Assemblée désignés pour la représenter à l'extérieur.

Article 31 : Aucun Député ne peut être membre titulaire de plus de deux commissions générales. Les groupes parlementaires procèdent à la désignation de leurs membres au sein de celles-ci sur la base proportionnelle. Cependant tout député peut participer aux travaux des commissions dont il n'est pas membre ; mais il n'a pas voix délibérative.

Article 32 : Dès leur nomination, toutes les commissions sont convoquées par le Président de l'Assemblée Nationale en vue de procéder à l'élection de leur bureau.

Le bureau se compose de:

- un Président
- un Vice-Président

Un Rapporteur est nommé à l'occasion de l'examen de chaque affaire.

Seule la commission des Finances de l'Economie, des Industries et du Plan désigne un rapporteur général et au besoin des rapporteurs spéciaux.

Le Président donne acte de cette adoption en séance publique.

Article 33 : Toute commission qui s'estime compétente pour donner un avis sur un projet, une proposition, un article de projet ou de proposition de délibération ou sur un chapitre du budget, en adresse la demande à la Conférence des Présidents. La Conférence statue sur cette demande, après avoir, le cas échéant entendu son auteur, un orateur contre, le Gouvernement et le Président de la commission saisie au fond.

L'auteur d'une proposition ou d'un amendement doit, s'il en fait la demande au Président de la commission être entendu aux séances de la dite commission consacrée à l'examen de son texte.

Lorsqu'un projet ou une proposition a été l'objet d'un renvoi pour avis, la commission désigne un rapporteur, lequel a le droit de participer, avec voix consultative, aux travaux de la commission saisie au fond. Réciproquement, le rapporteur de la commission pour fond a le droit de participer, avec voix consultative, aux travaux de la commission saisie pour avis.

Les Ministres ont accès aux réunions des commissions; ils sont entendus, soit sur leur demande, soit sur celle des commissions. Les commissions peuvent convoquer toute personne qu'il leur paraît utile de consulter. S'il s'agit d'un fonctionnaire, le Ministre intéressé doit être averti.

Article 34 : Les commissions peuvent discuter quel que soit le nombre des commissaires présents, mais la présence de la moitié plus un de leurs membres est nécessaire pour la validité de leur vote.

Si le quorum n'est pas atteint avant le vote, la séance de la commission est suspendue. A la reprise de la séance qui suit, le vote devient valable quel que soit le nombre des votants.

Article 35 : Les décisions des commissions sont prises à la majorité absolue des suffrages exprimés.

Les Présidents des commissions n'ont pas voix prépondérantes. En cas de partage égale des voix, la disposition mise aux voix n'est pas adoptée. Les rapports et avis des commissions doivent être lus et approuvés en commission avant leur dépôt sur le bureau de l'Assemblée Nationale. Dès qu'un projet de délibération une proposition de délibération ou un rapport sont déposés, ils sont photocopiés et distribués aux Députés par les soins des services administratifs dans les paniers prévus à cet effet, dans les bureaux de l'Assemblée.

Article 36 : Il est établi un procès verbal des réunions de commissions, lequel doit indiquer notamment le nom des membres présents, excusés ou absents, les décisions de la commission ainsi que les résultats des votes.

Seuls les membres de l'Assemblée Nationale et les membres du Gouvernement ont la faculté de prendre communication, sur place, des procès verbaux des commissions et des documents qui leur ont été remis. Les procès-verbaux ont un caractère confidentiel. Ils ne peuvent être publiés ni communiqués à la presse.

A l'issue d'une législature, tous les textes qui n'ont pas été examinés par l'Assemblée Nationale sont frappés de caducité.

A l'expiration de la législature, ces procès-verbaux et documents sont déposés aux archives de l'Assemblée.

CHAPITRE VII

LA COMMISSION DE COMPTABILITE ET DE CONTROLE

Article 37 : L'Assemblée élit en son sein une Commission de Comptabilité et de Contrôle composée de quinze membres.

Article 38 : La Commission de Comptabilité et de Contrôle est chargée du contrôle de la comptabilité et de la gestion des crédits inscrits au budget de l'Assemblée Nationale. A cet effet, un rapport écrit, portant notamment sur l'état des crédits et la situation des dépenses engagées doit lui être fourni par les questeurs à la fin de chaque trimestre.

La Commission de Comptabilité et de Contrôle dépose un rapport de contrôle trimestriel sur le bureau de l'Assemblée Nationale.

Article 39 : La Commission de Comptabilité et de Contrôle, après rapprochement des comptes de trésorerie avec la comptabilité tenue par les services de la questure, rend compte à l'Assemblée par écrit, au début de chaque session budgétaire, de l'exécution du mandat de contrôle qui lui est confié.

Article 40 : Le compte définitif annuel de chaque gestion est adressé à la Cour Suprême.

CHAPITRE VIII

POLICE DE L'ASSEMBLEE - DISCIPLINE ET IMMUNITE

Article 41 : Le Président a la police de l'Assemblée.

Il peut faire expulser de la salle de séance toute personne qui trouble l'ordre.

En cas de crime ou de délit, il en dresse procès verbal et le Procureur Général en est immédiatement saisi.

Article 42 : Sous réserve des dispositions du présent règlement, nulle personne étrangère à l'Assemblée Nationale et au Gouvernement ne peut s'introduire dans l'hémicycle.

Les personnes admises dans la partie affectée au public doivent avoir une tenue décente, et observer le silence le plus complet.

Toute personne qui donne des marques bruyantes d'approbation ou d'improbation est, sur le champ, exclue par les huissiers ou agents chargés du maintien de l'ordre.

Article 43 : Toute attaque personnelle, toute manifestation ou interruption troublant l'ordre, toute interpellation de collègue à collègue sont interdites.

Si l'Assemblée est tumultueuse, le Président peut annoncer qu'il va suspendre la séance. Si le calme ne se rétablit pas, il suspend la séance. Lorsque la séance est reprise, et si les circonstances l'exigent à nouveau, le Président lève la séance.

Pendant ces suspensions de séance les députés sortent de la salle.

Article 44 : Les sanctions disciplinaires applicables aux membres de l'Assemblée sont :

- le rappel à l'ordre ;
- le rappel à l'ordre avec inscription au procès verbal ;
- la censure avec inscription au procès verbal ;
- la censure avec exclusion temporaire dont la durée ne peut excéder une séance.

Article 45 : Le rappel à l'ordre est prononcé par le Président.

Est rappelé à l'ordre tout député qui cause un trouble quelconque dans l'Assemblée par ses interruptions, ses attaques personnelles ou de toute autre manière. La parole est accordée à celui qui, rappelé à l'ordre, s'y est soumis et demande à se justifier.

Dans le rappel à l'ordre avec inscription au procès verbal, lorsqu'un membre a été rappelé deux fois à l'ordre au cours de la même séance, le Président, après lui avoir accordé la parole pour se justifier, s'il la demande, doit consulter l'Assemblée à mains levées sans débat pour savoir s'il sera de nouveau entendu sur la même question.

L'incident est inscrit dans le procès verbal de la séance.

Article 46 : La censure simple est prononcée contre tout membre de l'Assemblée Nationale qui :

- après un rappel à l'ordre avec inscription au procès verbal, n'a pas déféré aux injonctions du Président ;
- dans l'Assemblée Nationale, a provoqué une scène tumultueuse ;
- a adressé à un ou plusieurs de ses collègues des injures, provocations et menaces.

Article 47 : La censure avec exclusion temporaire est prononcée contre tout membre de l'Assemblée qui :

- en séance publique, a fait appel à la violence ;
- s'est rendu coupable d'outrage envers l'Assemblée ou envers son Président ;
- s'est rendu coupable d'injures, provocations ou menaces envers le Président de la République.

La censure avec exclusion temporaire entraîne l'interdiction de prendre part aux travaux de l'Assemblée Nationale et de réapparaître dans le palais de l'Assemblée Nationale jusqu'à l'expiration du jour de séance qui suit celui où la mesure a été prononcée.

En cas de refus du membre de l'Assemblée Nationale de se conformer à l'injonction qui lui est faite par le Président de sortir de l'Assemblée, la séance est suspendue. Dans ce cas et aussi dans le cas où la censure avec exclusion temporaire est appliquée pour la deuxième fois à un membre de l'Assemblée, l'exclusion s'étend à trente (30) jours de séance d'une même session.

Article 48 : La censure simple et la censure avec exclusion temporaire sont prononcées par l'Assemblée, par assis et levé et sans débat, sur la proposition du Président.

Le membre de l'Assemblée Nationale contre qui l'une ou l'autre de ces peines disciplinaires est demandée a toujours le droit d'être entendu ou de faire entendre en son nom, un de ses collègues.

Article 49 : La censure simple comporte, de droit, la privation pendant un mois, de la moitié de l'indemnité.

L'exclusion temporaire comporte de droit la privation de la moitié de l'indemnité pendant deux mois.

Article 50 : Il est constitué, pour l'examen de chaque demande de levée de l'immunité parlementaire d'un député, de chaque demande de suspension de poursuites déjà engagées ou de chaque demande de suspension de détention d'un député, une commission ad-hoc de membres nommés à la représentation proportionnelle des groupes et comprenant au moins un membre de son groupe parlementaire d'origine.

La commission doit entendre le député intéressé, lequel peut se faire représenter par un de ses collègues.

Dans les débats ouverts par l'Assemblée, en séance publique, sur les questions d'immunité parlementaire, peuvent seuls prendre la parole le rapporteur de la commission, le Gouvernement, le député intéressé ou un membre de l'Assemblée le représentant, un orateur pour et un orateur contre.

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TITRE DEUXIEME :

PROCEDURE LEGISLATIVE

CHAPITRE I

DEPOT DES PROJETS ET PROPOSITIONS

Article 51 : Les projets dont l'Assemblée Nationale est saisie par le Gouvernement sont déposés sur son bureau. Il en est de même pour la déclaration de politique générale et le programme du Gouvernement.

Les propositions émanant des membres de l'Assemblée doivent être formulées par écrit. Elles sont remises au Président de l'Assemblée qui en donne connaissance à l'Assemblée.

Les projets et propositions sont distribués aux membres de l'Assemblée et renvoyés à l'examen de la commission compétente.

Ils sont inscrits et numérotés dans l'ordre de leur arrivée sur un rôle général portant mention de la suite qui leur a été donnée.

Article 52 : Dans l'intervalle des sessions les projets et propositions de Lois sont déposés sur le bureau de l'Assemblée Nationale.

Les propositions émanant des membres de l'Assemblée Nationale sont immédiatement communiquées au Président de la République qui doit faire connaître son avis dans les quinze (15) jours, à compter de leur transmission.

Les projets et propositions soumis aux délibérations de l'Assemblée doivent être examinés par elle lors de la session au cours de laquelle ils ont été déposés, ou au plus tard, au cours de la session suivante. Aucune proposition tendant à augmenter les dépenses ou à réduire les recettes ne peut être inscrite à l'ordre du jour si elle n'est complétée par une disposition tendant à procurer des ressources équivalentes.

Article 53 : Les propositions repoussées par l'Assemblée Nationale ne peuvent être reprises avant un délai de trois mois.

CHAPITRE II

REGLEMENT DE L'ORDRE DU JOUR, ORGANISATION DES DEBATS

Article 54 : L'ordre du jour de l'Assemblée comprend :

- les projets et propositions des Lois inscrits par priorité ;
- les questions orales inscrites ;
- les autres affaires inscrites.

Article 55 : La Conférence des Présidents qui comprend, les Vice-présidents de l'Assemblée, les Présidents des groupes parlementaires, les Présidents des commissions générales et le Rapporteur Général de la commission des Finances, est convoquée chaque semaine s'il y a lieu par le Président de l'Assemblée au jour et à l'heure fixés par lui. Elle examine l'ordre du jour des travaux de l'Assemblée et fait toutes propositions concernant le règlement de l'ordre du jour. En complément des discussions fixées par priorité par le Gouvernement.

Le Gouvernement est avisé par le Président du jour et de l'heure de la Conférence. Il peut y déléguer un représentant.

L'ordre du jour établi par la Conférence des présidents est immédiatement affiché et notifié au Gouvernement et aux présidents de groupes.

Les propositions de la Conférence des présidents sont soumises à l'approbation de l'Assemblée qui peut les modifier, notamment quant au nombre et au rang des affaires dont l'inscription à l'ordre du jour est proposé. Seuls peuvent intervenir le Gouvernement et, pour une explication de vote, les présidents des commissions ou leur délégué ayant assisté à la Conférence, ainsi qu'un orateur par groupe.

L'ordre du jour réglé par l'Assemblée ne peut être ultérieurement modifié que sur nouvelle proposition de la conférence.

Article 56 : L'organisation de la discussion générale des textes soumis à l'Assemblée peut être décidée par la Conférence des présidents.

La dernière séance d'une session est suspendue pour permettre au bureau d'examiner les propositions de modification du procès verbal. A la reprise de la séance, le Président fait connaître la décision du bureau et il est procédé alors, pour l'adoption du procès verbal, à un vote sans débat et par scrutin public.

Après son adoption, le procès verbal est revêtu de la signature du Président ou du vice-président qui a présidé la séance et de celle de deux secrétaires.

En cas de rejet du procès verbal, sa discussion est inscrite en tête de l'ordre du jour de la séance suivante ; dans ce cas le compte rendu in-extenso, signé par le Président et contresigné par les deux secrétaires, fait foi pour la validité des textes adoptés au cours de la nouvelle séance.

La synthèse des procès verbaux fait l'objet d'une publication au Journal Officiel dans le plus bref délai par les soins de l'administration de l'Assemblée Nationale, ainsi que toutes les décisions d'insertion prises par l'Assemblée.

Article 61 : Après l'adoption du procès verbal le Président donne lecture de la liste des projets et propositions de Lois déposés sur le bureau de l'Assemblée.

Avant de passer à l'ordre du jour, le Président donne connaissance à l'Assemblée des excuses présentées par ses membres ainsi que les communications qui la concernent ; il peut en ordonner l'impression.

Article 62 : Aucune motion, aucune résolution ou proposition ne peut être soumise au vote de l'Assemblée sans avoir fait, au préalable, l'objet d'un rapport de la commission compétente dans les conditions réglementaires.

Tout membre de l'Assemblée peut s'excuser de ne pouvoir assister à une séance déterminée. Il peut solliciter un congé de l'Assemblée. Les demandes doivent faire l'objet d'une déclaration écrite, motivée et adressée au Président.

Le congé prend fin par une déclaration personnelle, écrite du membre de l'Assemblée.

Peut être considéré comme démissionnaire tout membre de l'Assemblée qui a manqué à deux (2) sessions ordinaires sans excuse légitime ou empêchement admis par l'Assemblée.

Article 63 : Aucun membre de l'Assemblée Nationale ne peut parler qu'après avoir demandé la parole au Président et l'avoir obtenue, même s'il est autorisé exceptionnellement par un orateur à l'interrompre. En ce dernier cas, l'interruption ne peut dépasser cinq (5) minutes.

Les députés qui désirent intervenir s'inscrivent auprès du Président qui détermine l'ordre dans lequel ils sont appelés à prendre la parole.

Le temps de parole de chaque orateur est limité.

L'orateur parle à la tribune ou de sa place ; le Président peut l'inviter à monter à la tribune.

L'orateur ne doit pas s'écarter de la question, sinon le Président l'y rappelle. S'il ne défère pas à ce rappel, de même que si un orateur parle sans en avoir obtenu l'autorisation ou prétend poursuivre son intervention après avoir été invité à conclure ou lit un discours, le Président peut lui retirer la parole. Dans ce cas, le Président ordonne que ses paroles ne figureront plus au procès verbal.

Article 64 : Les Ministres, les Présidents et les Rapporteurs des commissions saisies au fond, obtiennent la parole quant ils la demandent.

Le président de séance ne peut prendre la parole dans un débat que pour présenter l'état de la question ou y ramener l'orateur.

La parole est accordée, par priorité, sur la question principale et pour cinq minutes, à tout membre de l'Assemblée Nationale qui la demande pour un rappel au règlement. Si manifestement, son intervention n'a aucun rapport avec le règlement, le Président peut lui retirer la parole selon les dispositions du présent Règlement Intérieur.

La parole est également accordée mais seulement en fin de séance, et pour cinq minutes, à tout membre de l'Assemblée qui la demande pour un fait personnel ; le Président déclare ensuite que l'incident est clos.

Article 65 : Lorsque au moins deux orateurs d'avis contraire ayant traité le fond du débat ont pris part à une discussion, le Président ou tout autre membre de l'Assemblée peut en proposer la clôture.

Lorsque la parole est demandée contre la clôture, elle ne peut être accordée que pour cinq (5) minutes et à un seul orateur qui doit se renfermer dans cet objet. Le premier des orateurs inscrits et, à son défaut, l'un des orateurs inscrits dans l'ordre d'inscription a priorité de parole contre la clôture.

Le Président consulte l'Assemblée à mains levées, s'il y a doute. l'Assemblée est consultée par assis et levé, et si le doute persiste, l'Assemblée se prononce par scrutin.

Si la demande de clôture est rejetée, la discussion continue mais la clôture peut être à nouveau demandée et il est statué sur cette demande dans les conditions prévues ci-dessus.

Article 66 : Les motions préjudicielles peuvent être opposées à tout moment en cours de discussion, elles sont mises aux voix immédiatement avant la question principale et, éventuellement avant les amendements.

L'auteur de la motion, un orateur d'opinion contraire, le Gouvernement et le Président ou le rapporteur de la commission saisie au fond ont seuls droit à la parole.

Article 67 : Le renvoi à la commission de l'ensemble d'un projet ou d'une proposition, ou la réserve d'un article, d'un chapitre de crédit ou d'un amendement peuvent toujours être demandés. Lorsque la commission demande ou accepte le renvoi ou la réserve, il est de droit prononcé sans débat.

En cas de renvoi à la commission de l'ensemble d'un projet ou d'une proposition, l'Assemblée peut fixer la date à laquelle le projet ou la proposition lui sera à nouveau soumis.

En cas de renvoi à la commission ou de réserve d'un article, d'un chapitre de crédit ou d'un amendement, la commission est tenue de présenter ses conclusions avant la fin de la discussion. Elle doit strictement limiter ses conclusions aux textes qui lui ont été renvoyés.

Article 68 : La disjonction d'un article, d'un chapitre ou diminution de recettes n'est recevable s'il ne comporte une proposition d'augmentation de recettes ou d'économies équivalentes. Toutefois, la contestation de l'évaluation du rendement futur d'une recette ainsi proposée entraîne de droit le renvoi de la discussion.

Article 69 : Les demandes touchant à l'ordre du jour, les demandes de priorité ou de rappel au règlement ont toujours la préférence sur la question principale ; elles en suspendent la discussion.

Dans les questions complexes, la division est de droit lorsqu'elle est demandée. Elle peut être proposée par le Président.

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Article 70 : Avant de lever la séance, le Président fait part à l'Assemblée de la date et de l'heure de l'ordre du jour de la séance suivante.

Article 71 : Les comptes rendus in-extenso des débats sont signés par le Président et conservés au Secrétariat général de l'Assemblée Nationale.

CHAPITRE IV

MODE DE VOTATION

Article 72 : L'Assemblée est toujours en nombre pour délibérer et pour régler son ordre du jour.

La présence de la majorité absolue des membres de l'Assemblée Nationale est nécessaire pour la validité des votes, sauf en matière de fixation de l'ordre du jour.

Le bureau déclare cette majorité.

En cas d'empêchement, tout député peut accorder une délégation de vote.

La délégation doit être écrite, signée et adressée par le délégant au délégué. Pour être valable, elle doit être notifiée au Président de l'Assemblée Nationale avant l'ouverture du scrutin.

La notification doit indiquer le nom du député appelé à voter aux lieu et place du délégant, ainsi que le motif de l'empêchement et sa durée.

A défaut, la délégation est accordée pour une durée de huit (8) jours sauf renouvellement dans ce délai. Elle devient caduque à l'expiration de celui-ci.

En cas d'urgence, la délégation et sa notification peuvent être faites par télégramme, avec accusé de réception et sous réserve de confirmation.

Article 73 : L'Assemblée Nationale vote sur les questions qui lui sont soumises soit à mains levées, soit par assis et levé, soit au scrutin public, soit au scrutin secret.

Il est toujours procédé par scrutin secret aux nominations personnelles.

Article 74 : Le vote à mains levées est le mode de votation ordinaire.

Si l'épreuve est déclarée douteuse il est procédé au vote par assis et levé.

Si le doute persiste, le vote au scrutin public est de droit.

Article 75 : En toute matière et sur demande de cinq députés, il est procédé au scrutin public.

Article 76 : Dans le scrutin public il est distribué à chaque député trois sortes de bulletins nominatifs : blancs, bleus et blancs rayés de bleu.

Chaque député dépose dans l'urne qui lui est présentée un bulletin de vote à son nom, blanc s'il est pour l'adoption, bleu s'il est contre, blanc rayé de bleu s'il désire s'abstenir.

Lorsque les bulletins ont été recueillis, le Président prononce la clôture du scrutin.

Les Secrétaires en font le dépouillement et le Président en proclame le résultat.

Les questions mises aux voix ne sont déclarées adoptées que si elles ont recueilli la majorité absolue des suffrages exprimés. En cas d'égalité de voix, la question mise aux voix est rejetée.

CHAPITRE V

DISCUSSION DES PROJETS ET PROPOSITIONS

Article 77 : Lorsque la discussion d'un texte a commencé, la suite du débat est inscrite de droit en tête de l'ordre du jour de la séance suivante sauf demande contraire de la commission saisie du fond.

Article 78 : Les projets et propositions sont en principe soumis à une seule délibération en séance publique.

Il est procédé tout d'abord à une discussion générale du rapport fait sur le projet ou la proposition.

Après la clôture de la discussion générale le Président consulte l'Assemblée Nationale sur le passage à la discussion des articles du rapport de la commission.

Lorsque la commission ne présente aucune conclusion, l'Assemblée Nationale est appelée à se prononcer sur le passage à la discussion des articles du texte initial de projet ou de la proposition.

Dans tous les cas où l'Assemblée décide de ne pas passer à la discussion des articles, le Président déclare que le projet ou la proposition n'est pas adopté.

Dans le cas contraire, la discussion continue et elle porte successivement sur chaque article et sur les amendements qui s'y rattachent.

Après le vote de tous les articles, il est procédé au vote sur l'ensemble du projet ou de la proposition.

Lorsqu'avant le vote sur l'article unique d'un projet ou d'une proposition, il n'a pas été présenté d'article additionnel, ce vote équivaut à un vote sur l'ensemble. Aucun article additionnel n'est recevable après ce vote.

Il ne peut être présenté de considérations générales sur l'ensemble. Sont seules admises, avant le vote sur l'ensemble, des explications sommaires de vote n'excédant pas cinq (5) minutes.

Article 79 : Avant le vote sur l'ensemble des projets et propositions l'Assemblée peut décider, sur la demande d'un de ses membres, soit qu'il sera procédé à une seconde délibération, soit que le texte sera renvoyé à la commission saisie au fond pour révision et coordination.

La seconde délibération ou le renvoi est de droit si la commission le demande ou l'accepte.

Lorsqu'il y a lieu à seconde délibération, les textes adoptés lors de la première délibération sont renvoyés à la commission qui doit présenter un nouveau rapport. Dans sa deuxième (2) délibération, l'Assemblée n'est appelée à statuer que sur les nouveaux textes proposés par la commission ou sur les modifications apportées aux textes précédemment adoptés.

Lorsqu'il y a lieu à renvoi à la commission pour révision et coordination, la commission présente sans délai son rapport. Lecture en est donnée à l'Assemblée et la discussion ne peut porter que sur la nouvelle rédaction.

Article 80 : Lorsque le Président de la République demande l'examen d'un texte en seconde lecture, l'Assemblée Nationale statue sur les seuls amendements pouvant résulter de l'avis contenu dans le message du Président de la République.

En cas de rejet total ou partiel de ces modifications, le vote a lieu au scrutin public et à la majorité absolue des membres composant l'Assemblée Nationale.

Article 81 : A tout moment, la discussion immédiate d'un projet ou d'une proposition peut être demandée par le Président de la République, par la commission compétente, ou, s'il s'agit d'une proposition de délibération, par son auteur ; la demande est communiquée à l'Assemblée Nationale.

Lorsque la discussion immédiate est demandée par l'auteur d'une proposition sans accord préalable avec la commission compétente, cette demande n'est communiquée à l'Assemblée que si elle est signée par dix membres dont la présence doit être constatée par appel nominal.

Le débat engagé sur une demande de discussion immédiate ne peut jamais porter sur le fond. L'auteur de la demande, un orateur contre, le rapporteur de la commission et le Gouvernement sont seuls entendus.

Lorsque la discussion immédiate est décidée par l'Assemblée, il peut être délibéré sur simple rapport verbal.

Article 82 : Il ne peut être introduit dans les délibérations du budget ou les délibérations des crédits prévisionnels ou supplémentaires que des dispositions visant directement les recettes ou les dépenses de l'exercice : aucune proposition de résolution, aucune interpellation, aucun ordre du jour motivé ne peuvent leur être joints, aucun article additionnel ne peut y être présenté, sauf s'il tend à supprimer ou à réduire une dépense, à créer ou à accroître une recette, ou à assurer le contrôle des dépenses publiques.

Les amendements relatifs aux états de dépenses ne peuvent porter que sur les chapitres desdits états.

Les chapitres des différents dossiers dont la modification n'est pas demandée, soit par le Gouvernement, soit par la commission des finances, soit par un amendement régulièrement déposé, ne peuvent être l'objet que d'un débat sommaire. Chaque orateur ne peut parler qu'une fois, sauf exercice du droit de réponse aux ministres et aux rapporteurs. La durée de cette réponse ne peut en aucun cas excéder cinq (5) minutes.

Article 85 : Les contre projets constituent des amendements à l'ensemble du texte auquel ils s'opposent.

L'Assemblée Nationale ne peut être consultée que sur leur prise en considération, si elle est prononcée, le contre projet est envoyé à la commission qui doit présenter des conclusions dans le délai fixé par l'Assemblée Nationale.

La Procédure aux amendements est applicable aux contre projets ainsi qu'aux articles additionnels.

Lorsque la législation concernant une matière aura été certifiée, les projets et propositions de délibération susceptibles d'y apporter une modification quelconque seront présentés sous forme de projets ou propositions de modification du code intéressé.

Article 86 : Avant l'examen des contre projets le Gouvernement peut demander la prise en considération de son texte initial régulièrement déposé sur le bureau de l'Assemblée. Il peut en cours de discussion, faire la même proposition pour un ou plusieurs articles ou chapitres. Cette demande a la priorité sur les autres contre projets ou amendements.

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TITRE TROISIEME :

CONTROLE PARLEMENTAIRE

PREMIERE PARTIE : PROCEDURES D'INFORMATION ET DE CONTROLE DE
L'ASSEMBLEE

CHAPITRE I

RESOLUTION - QUESTIONS ECRITES - DEMANDE DE RENSEIGNEMENT
OBSERVATIONS ET ENQUETES

Article 87 : Sur l'initiative de l'une de ses Commissions, l'Assemblée peut inscrire en son ordre du jour la discussion de résolutions destinées au Président de la République.

Cette discussion se déroule selon la procédure prévue pour la discussion en séance plénière des projets et propositions de loi.

Article 88 : Tout membre de l'Assemblée qui désire poser une question à un membre du Gouvernement doit en remettre le texte écrit au Président de l'Assemblée qui le communique au chef du Gouvernement après avis de la Conférence des Présidents.

Les questions écrites sont publiées à la suite du compte rendu in-extenso.

Dans le mois qui suit cette publication, les réponses des ministres doivent également y être publiées.

Lorsqu'une question écrite n'a pas obtenue de réponse dans le délai d'un mois, elle fait l'objet d'un rappel pour lequel un nouveau délai d'un mois est ouvert.

Si, à l'expiration de ce nouveau délai, la question n'a pas obtenu une réponse, son auteur peut, au cours de la session en cours ou de la session qui suit, la transformer en interpellation contre le Gouvernement.

Article 89 : Sur l'initiative du Président de l'Assemblée Nationale ou de l'une de ses commissions, l'Assemblée peut charger un ou plusieurs de ses membres d'une mission de renseignement.

Article 90 : Des commissions spéciales d'enquête peuvent être éventuellement créées au sein de l'Assemblée.

Elles sont formées pour recueillir des éléments d'informations sur des faits déterminés et soumettre leurs conclusions à l'Assemblée. A la suite il ne peut être créé de commissions spéciales d'enquête quand les faits ont donné lieu à des poursuites judiciaires aussi longtemps que ces poursuites sont en cours. Si une commission a déjà été créée, sa mission prend fin dès l'ouverture d'une information judiciaire relative aux faits qui ont motivé sa création.

CHAPITRE II

QUESTIONS ORALES

Article 91 : Tout député qui désire poser aux membres du Gouvernement des questions orales, doit remettre celles-ci au Président de l'Assemblée qui les communique à leur destinataire.

Les questions orales sont inscrites sur un rôle spécial au fur et à mesure de leur dépôt.

Elles sont inscrites par la Conférence des Présidents en tête de l'ordre du jour de la première séance de chaque semaine.

Le Ministre, puis l'auteur de la question disposent seuls de la parole.

Lorsque, par suite de deux absences successives d'un Ministre une question est appelée pour la troisième fois en séance publique, si le Ministre est de nouveau absent, l'auteur de la question peut la transformer, séance tenante, en interpellation contre le Gouvernement.

DEUXIEME PARTIE : MISE EN JEU DE LA RESPONSABILITE GOUVERNEMENTALE

CHAPITRE III

DEBAT SUR LE PROGRAMME OU SUR UNE DECLARATION DE POLITIQUE GENERALE DU GOUVERNEMENT. MOTIONS DE CENSURE

Article 92 : Lorsque, par application de la Constitution du Mali, le chef du gouvernement engage la responsabilité du gouvernement sur son programme ou sur une déclaration de politique générale, il est procédé au débat dans les conditions suivantes.

Après audition du Chef du Gouvernement, la séance est suspendue.

Dans la demi-heure qui suit, les orateurs qui désirent intervenir se font inscrire à la Présidence.

Le Président de l'Assemblée Nationale convoque à cet effet la Conférence des Présidents pour organiser le débat. Après la clôture de la discussion, la parole peut être accordée pour des explications de vote de cinq(5) minutes.

Le Président met aux voix l'approbation du programme ou de la déclaration du gouvernement.

Le vote est émis à la majorité absolue des membres composant l'Assemblée.

Article 93 : Le dépôt des motions de censure est constaté par la remise au président de l'Assemblée, au cours d'une séance publique, d'un document portant l'intitulé "motion de censure" suivi de la liste des signatures d'au moins un dixième (1/10) des membres de l'Assemblée.

A partir du dépôt, aucune signature ne peut être retirée ni ajoutée. Le Président de l'Assemblée notifie la motion de censure au Gouvernement et en donne connaissance à l'Assemblée.

La Conférence des Présidents fixe la date de discussion des motions de censure qui doit avoir lieu au plus tard le troisième jour de séance suivant le jour du dépôt.

Le débat est organisé. S'il y a plusieurs motions, la Conférence peut décider qu'elles seront discutées en commun, sous réserve qu'il soit procédé pour chacune à un vote séparé.

Aucun retrait d'une motion de censure n'est possible après sa mise en discussion. Lorsque la discussion est engagée, elle doit être poursuivie jusqu'au vote.

Après une discussion générale, la parole peut être accordée pour des explications de vote de cinq minutes.

Il ne peut être présenté d'amendements à une motion de censure.

Seuls les Députés favorables à la motion participent au vote en remettant un bulletin blanc à un des secrétaires qui le dépose dans une urne placée sur la tribune. Il est procédé à l'émargement de la liste des votants au fur et à mesure des votes émis.

L'adoption d'une motion de censure à la majorité des deux tiers (2/3) des membres composant l'Assemblée entraîne automatiquement la démission du Gouvernement.

Article 94 : Lorsque en application de la Constitution, le Chef du Gouvernement engage la responsabilité du Gouvernement sur le vote d'un texte, le débat est immédiatement suspendu durant vingt quatre heures(24h).

Dans ce délai et par dérogation à l'alinéa premier de l'article précédent, une motion de censure répondant aux conditions fixées par cet article peut être déposée.

L'Assemblée se réunit à l'expiration du délai de vingt quatre heures pour prendre acte, soit de l'approbation du texte, soit du dépôt d'une motion de censure.

Il est procédé à la notification, à l'inscription à l'ordre du jour à la discussion et au vote de cette motion dans les conditions prévues à l'article précédent.

CHAPITRE IV

DISPOSITIONS DIVERSES

Article 95 : L'Assemblée Nationale fixe par une loi annexée au présent règlement intérieur le montant et les conditions d'attributions de l'indemnité allouée à ses membres ainsi que les règles applicables au remboursement de leurs frais de transport.

L'Assemblée Nationale, en outre, vote pour son Président une indemnité forfaitaire annuelle pour frais de représentation.

De même, elle vote une indemnité forfaitaire annuelle pour les membres du bureau de l'Assemblée Nationale.

Article 96 : Lorsqu'un Député aura manqué au cours de son mandat aux séances de deux sessions ordinaires, sans excuse légitime admise par l'Assemblée, il sera déclaré démissionnaire d'office par celle-ci.

L'Assemblée devra, toutefois, inviter le membre intéressé à fournir toutes explications ou justifications qu'il jugerait utiles et lui impartir un délai à cet effet.

Ce n'est qu'après examen desdites explications ou justifications ou, à défaut, à l'expiration du délai imparté, que la démission pourra être valablement prononcée par l'Assemblée.

Article 97 : IL est interdit à tout Député d'exciper ou de laisser user de sa qualité dans des entreprises financières, industrielles ou commerciales, ou dans l'exercice des professions libérales ou autres et, d'une façon générale, d'user de son titre pour d'autres motifs que pour l'exercice de son mandat.

Article 98 : Des insignes sont portées par les Députés lorsqu'ils sont en mission, dans les cérémonies publiques, et en toutes circonstances où ils ont à faire connaître leur qualité.

En outre il leur sera attribué des cartes parlementaires et macarons.

La nature de ces insignes cartes et macarons est déterminée par le bureau.

Article 99 : Le présent règlement peut être modifié conformément aux dispositions de l'article 70 de la Constitution.

La proposition de modification est soumise à l'Assemblée sur rapport de la Commission des Lois Constitutionnelles, de la législation, de la justice de l'Administration Territoriale et de la Décentralisation.

Article 100: Sont abrogées toutes les dispositions contraires à la présente loi.

Fait et délibéré en séance publique

A Bamako le 17 Juillet 1992

Le Secrétaire de Séance

Le Président de l'Assemblée
Nationale

ANNEX III CODE MORAL DE CONDUITE

Mme. C/Opposition
PRESIDENCE DU COMITE
DE TRANSITION POUR LE
SALUT DU PEUPLE

REPUBLIQUE DU MALI
UN PEUPLE-UN BUT-UNE FOI

P R I M A T U R E

MINISTERE DELEGUE AUPRES DU
PREMIER MINISTRE CHARGE DES
REFORMES INSTITUTIONNELLES
ET DE LA DECENTRALISATION

SECRETARIAT GENERAL DU
GOUVERNEMENT

() RDONNANCE N°/CTSP
PORTANT CODE MORAL DE CONDUITE
ENTRE L'OPPOSITION ET LA MAJORITE
GOUVERNEMENTALE.

LE PRESIDENT DU COMITE DE TRANSITION POUR
LE SALUT DU PEUPLE

VU l'Acte Fondamental n°1/F-CTSP du 31 Mars 1991
VU l'Ordonnance n°91-074/P-CTSP du 10 Octobre 1991
portant Code Electoral
VU L'Ordonnance n°91-075/P-CTSP du 10 Octobre 1991 portant
la Charte des partis
La Cour Suprême entendue en sa séance du.....
Le Conseil des Ministres entendu en sa séance du.....

() R D O N N E :

Article-1: Le Code moral de Conduite de l'Opposition est un ensemble de principes qui régit les rapports entre la majorité et les partis d'opposition.

Article-2: Les partis d'opposition sont des partis ou groupements politiques qui n'appartiennent pas à la majorité gouvernementale.

Article-3: Il est reconnu à tout parti minoritaire le droit à l'opposition.

La minorité doit participer par son travail et sa critique à la discussion et obliger ainsi la majorité à tenir compte des intérêts de la minorité.

Article-4: L'opposition est un élément essentiel de la démocratie. En conséquence, elle a le devoir permanent de représenter officiellement la critique de l'ensemble et des points particuliers du programme gouvernemental et constitue l'alternative politique à la majorité gouvernementale.

Article-5: Les partis d'opposition doivent se sentir co-responsables de la conduite de l'Etat.

A ce titre, ils doivent suivre l'action du gouvernement et la critiquer s'il y a lieu. Cette critique doit être précise, exigeante et constructive. Ils doivent être prêts le cas échéant à partager la responsabilité du Gouvernement.

Article-6: Les partis d'opposition ont une représentation minimale au sein des différentes Commissions permanentes de l'Assemblée Nationale. les modalités de cette représentation seront déterminées par le règlement intérieur.

Article-7: L'ordre de jour des sessions de l'Assemblée Nationale est fixé par concertation régulière entre la majorité et la minorité.

Article-8: L'opposition doit avoir l'opportunité de faire examiner des sujets et des textes de son choix. A ce titre, celle-ci dispose d'un crédit d'heure par séance ou d'un quota de séances par session.

Article-9: Le président de l'Assemblée Nationale, dans la détermination de la succession des orateurs doit être guidé par la considération des tendances diverses des partis, de l'alternance des interventions opposées et de l'effectif des groupes.

Après l'intervention d'un membre du Gouvernement ou d'un porte parole de celui-ci, une opinion divergente doit notamment pouvoir s'exprimer.

Article-10: Le Président de la République ou le Chef du Gouvernement procède à la consultation, autant que cela paraît nécessaire des dirigeants des partis d'opposition sur des questions d'intérêt national ou de politique étrangère. Dans ce cas, il leur est demandé de donner des avis ou de faire des suggestions.

Article-11: L'opposition a le droit d'être informée sur le programme du Gouvernement. Mais l'opposition minoritaire ne peut contraindre politiquement le gouvernement à venir s'expliquer devant elle.

Article-12: Le principe du libre accès aux sources d'information et aux documents administratifs est reconnu aux partis d'opposition dans le respect des dispositions législatives et réglementaires en la matière.

Article-13: L'opposition a le droit de faire constituer une commission d'enquête en vue d'avoir plus d'information sur toute question qu'elle estime importante. Les modalités de constitution de cette commission seront déterminées par le règlement intérieur de l'Assemblée Nationale. (A/R)

Article-14: Les médias d'Etat couvrent les activités des partis d'opposition et rendent compte de leur position sur des questions d'intérêt national ou touchant à la politique étrangère. A cet effet, ils leur ouvrent leur organes. L'organe chargé de l'égal accès pour tous aux médias d'Etat veille au respect de ces principes.

Article-15: La durée d'antenne à la radios et à la télévision attribuée aux partis ou groupements politiques représentés à l'Assemblée Nationale est divisée en deux séries égales: une étant affectée aux groupes qui appartiennent à la majorité et l'autre à ceux qui ne l'appartiennent pas.

Article-16: Il est reconnu aux partis d'opposition représentés à l'Assemblée Nationale un droit de réplique à la radio et à la télévision après chaque communication ou intervention gouvernementale sur des questions d'intérêt national ou de politique étrangère.

Article-17: Les partis d'opposition représentés à l'Assemblée Nationale ont le droit de désigner un ou plusieurs portes-paroles en vue d'exposer au cours des sessions leur position ou leur appréciation des questions d'intérêt national ou de politique étrangère.

Article-18: Les partis d'opposition non représentés à l'Assemblée Nationale peuvent saisir par écrit le chef du Gouvernement pour des questions qu'ils estiment importantes.

Article-19: Les chefs des partis d'opposition sont invités aux cérémonies officielles, célébrations de fêtes nationales ou de réception des dirigeants des pays étrangers.

Ils peuvent rendre des visites de courtoisie aux hôtes de marque en séjour dans notre ou les recevoir à leur siège.

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Article-20: Les partis d'opposition sont tenus dans leur action au respect des principes contenus dans la Constitution, les lois et les règlements de la République. Ils doivent veiller en toute circonstance à placer le débat politique dans une limite compatible avec l'esprit démocratique, de tolérance et de respect.

Article-21: La présente ordonnance sera exécutée comme loi de l'Etat.

Bamako, le.....

Le Président du Comité de
Transition Pour le Salut du Peuple

Lieutenant Colonel Amadou Toumani TOURE

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